A STUDY OF POLICY IMPLEMENTATION: DESEGREGATION
OF THE DALLAS INDEPENDENT SCHOOL DISTRICT

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ABSTRACT

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Even though the significance of Brown v. Board of Education is recognized by almost everyone, implementing the decision has been a very difficult task. Implementation of the resulting desegregation order in Dallas has been influenced by the national response to desegregation as well as by local conditions and responses. The purpose of this study is to analyze those factors which influenced implementation. A history of the fight for public school desegregation up to, and including, the Brown decision, is given as background and to help understand why implementation was so difficult.

The nationwide attempt to implement Brown is discussed because the efforts toward implementation in other parts of the nation have strongly influenced the struggle in Dallas. Such factors as the problem of poor communication, the structure and traditions of the federal courts, the reasons for individual noncompliance and the focus on secondry issues such as busing and white flight are considered on a national scale.

Implementation of desegregation orders in Dallas is discussed as it

relates to these national issues. Emphasis is placed on the tactic of delay as it is used to put off and avoid desegregation. The positions of Dallas school boards, public officials, administrators and the press are considered in light of various stages of the twenty-eight year struggle for desegregation of the Dallas Independent School District. The final chapter analyzes the current status of desegregation in Dallas and offers conclusions concerning how effectively the court orders for desegregation have been implemented.

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# CHAPTER I

## INTRODUCTION

In 1954, in the United States Supreme Court case titled Brown v. Board of Education of Topeka,[1] the justices ruled that the concept of "separate but equal" provided inherently unequal education for black children. That doctrine, established by the Plessy v. Ferguson[2] case of 1896, was rejected. Public schools had to be desegregated, since continued segregation would violate the Fourteenth Amendment rights of blacks to equal protection of the laws.[3]

The importance of the Brown decision is unquestionable. It has affected millions of people. For blacks and other minority groups, it provided substantial hope that equal treatment might someday be theirs. For whites, it provided a test of their ability to cooperate with their fellow man and to share one of the nation's greatest resources. The outcry which followed the decision was loud, long and packed with emotion. The Court had asked that the traditions of more than three centuries be overturned. Richard Kluger defined the importance of the decision in this way: "Probably no case ever to come before the nation's highest tribunal affected more directly the minds, hearts, and daily lives of so many Americans".[4]

The road to Brown began with the Plessy decision in 1896. This case, which really involved separation of the races on railroad cars, established the "separate but equal" doctrine. In that case, the court ruled that it was constitutionally acceptable to separate the races as

long as equal facilities were provided for each. In so doing, the Supreme Court specifically cited a former case before the Supreme Judicial Court of Massachusetts which involved the establishment of separate schools for black and white students.[5]

While the schools did become separate in many states of the nation, they were rarely equal. In 1910, southern blacks stayed in school an average of seven years as opposed to almost ten years for whites. One reason for this was that there existed not one rural eighth grade in all of the south that enrolled black children. By 1929, black children outnumbered whites in some southern states, but only six percent of the region's high schools accepted blacks. In 1930, the south's average expenditure for white students was $42.39, but for blacks it was only $15.86. In some states the gap was even greater; South Carolina spent ten times as much per white student as per black. A similar gap existed in state funded teacher salaries. In 1929, white southern teachers averaged $118.01 per month while the black teachers averaged $72.78 in the same region. In South Carolina, the earnings of black teachers averaged one third as great as whites.[6]

Not surprisingly, blacks worked towards doing away with the separate but equal schools that were anything but equal. The main force behind this movement was the National Association for the Advancement of Colored People (NAACP) which began in 1910 as an outgrowth of a group lead by W.E.B. DuBois called the Niagra Movement.[7] They attacked the segregated structure of public schools through litigation in the nation's courts.

Most of the earliest cases dealt with higher education. The first success came in 1935 in Murray v. Maryland[8] when a black applicant was allowed to enter the University of Maryland Law School because that state provided no law school for blacks.[9] In 1938, in Missouri ex Rel Gaines,[10] a black was not allowed to enter the University of Missouri Law School but the state was forced to open a law school for blacks.[11] In 1948 a similar case forced the state of Oklahoma to either admit a black student to a white law school or to open one immediately for blacks. Oklahoma responded by roping off a section of the state capitol and declaring it to be a black law school.[12]

Probably the most important of the higher education cases were two decisions that were handed down on the same day in 1950. The first attacked the very concept of separate but equal facilities. It involved again, a black student who wished to enter a white law school. In this case, Sweatt v. Painter,[13] the state of Texas tried to avoid allowing blacks to enter the University of Texas Law School by establishing a black law school at Prairie View A&M University. The court ruled that Sweatt, a black, must be allowed to enter the University of Texas Law School because it was obviously superior to the one at Prairie View A&M, and thus not equal. The court made it clear, however, that they did not intend the Sweatt ruling to establish a policy that went beyond that individual case.[14]

The second case was McLaurin v. Oklahoma State Regents for Higher Education.[15] McLaurin, a sixty-eight year old black teacher, wanted to work on a Doctorate in Education at the School of Education of the

University of Oklahoma. The state supreme court ruled that McLaurin must be admitted, since a similar program was not offered at a black university in the state. The Oklahoma legislature followed with a ruling that black students at formerly all white schools must eat at separate tables in the dining rooms, study at separate tables in the library and receive instruction in railed off areas of classrooms marked "reserved for colored." The United States Supreme Court , on appeal, ruled that such restrictions put too great a handicap on McLaurin's pursuit of education and set aside the state law in question.[16]

Finally in the early 1950's , attention turned toward segregation in public elementary and secondary schools. Five cases, which together included all elementary and secondary grades, came up through the courts and were eventually combined for one all encompassing ruling. The very fact that the Supreme Court sought to combine the five separate cases indicated that at last a definitive ruling on the quality and constitutionality of separate schools was going to be made. The first three of the five cases were Brown v. Board of Education of Topeka,[17] originally tried in the United States District Court in Kansas, Briggs v. Elliot,[18] originally heard in the United States District Court in South Carolina and Davis v. County School Board of Prince Edward County,[19] Virginia, originally heard in the United States District Court in Virginia. In all three of these cases the district court ruled in favor of the school district and the rulings eventually reached the Supreme Court by the normal appeals route.

The fourth case was Gebhart v. Belton[20] which originated in the state courts of Delaware. In this case the courts ruled in favor of the black plaintiffs up to and including the Supreme Court of Delaware and thus came before the Supreme Court of the United States at the request of the defendants.[21]

The fifth case, Bolling v. Sharpe,[22] was from the district court in the District of Columbia. It had not proceeded through the Court of Appeals level but the Supreme Court requested that this case be argued before them at the same time as the other four related cases.[23]

Thus, all five cases were combined under the title Brown v. The Board of Education of Topeka[24] and originally argued before Chief Justice Vinson's Supreme Court in December of 1952. That court could not reach its decision during that term and asked for further oral arguments in October of 1953. By that time Vinson had died and had been replaced as Chief Justice by former California governor, Earl Warren. The Court did not move quickly under Warren either, and it was not until May 17, 1954 that their decision in the desegregation cases was announced.

In writing for the unanimous court, Chief Justice Warren stated that:

> Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing

> him for professional training, and in helping him to adjust normally to his environment. In these days it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.[25]

Thus the Brown decision at last did away with state sanctioned segregated schools. Dan W. Dodson, writing in Integrated Education in 1980 said of the decision:

> The American dream, that all would be recognized according to ability and initiative, was extended to the one-tenth of the population who had been previously excluded. The court had the insight to recognize that separation denoted inferiority which the court said "may affect them (children) in their hearts and minds in ways likely never to be undone."[26]

Nevertheless, twenty-nine years later, the decision of the court in Brown v. Board of Education of Topeka[27] is not even close to complete implementation. There are many reasons why it is not.

Chapter II of this thesis will discuss in detail the problems involved with the implementation of the Brown decision throughout the nation. This national overview of problems will help explain some of the local problems of implementation discussed in Chapter III and describe the nationwide resistence which encourages local districts to resist implementation. Chapter III, thus, will narrow the focus of the problems involved with implementing desegregation orders by detailing the case history of desegregation in the Dallas Independent School District. Finally, Chapter IV will offer conclusions and review those directions in which school desegregation efforts appear to be headed in the future.

## CHAPTER II

## AN OVERVIEW OF IMPLEMENTATION PROBLEMS

While 1954 may finally have brought the United States Supreme Court around to seeing the injustice of "separate but equal," a very large portion of the population did not immediately accept their judgement and, thus, implementing their decision was anything but easy. Any Supreme Court decision of importance can find obstacles placed in the path of implementation. The Brown decision suffered from most of these obstacles. Broadly speaking, the problems can be classified as inherent problems of the federal court system, problems of communication, reasons for individual non-compliance, the focus on secondary issues, problems related to budgets, physical plants and professional employees, and the problem of delay.

The implementation of any decision can suffer from problems associated with the structure, powers and traditions of the federal court system itself. All of these affected implementation of the school desegregation orders.

The Supreme Court sits atop the federal court system and can have the final ruling in virtually all federal cases. Below it are thirteen United States Courts of Appeals with 144 judges and ninety-four United States District Courts with approximately 515 judges.[28] A quick glance at this structure, coupled with reading of the press coverage of Supreme Court actions, might cause one to view the federal court system as a normal pyramidal organization in which

power flows from the top down. In reality, such is often not the situation.

The Supreme Court hears virtually no cases of original jurisdiction. In its entire history, the highest court has heard cases of original jurisdiction only about 150 times.[29] Instead, the Supreme Court uses the lower courts to filter out most cases and, as is generally its privilege, simply refuses to hear cases on appeal unless it deems them worthy.

The situation which the Supreme Court finally addressed in its 1954 Brown decision, had existed for many generations in many school districts of this country. Nevertheless, it took adjudication of dozens of court cases introduced at the state level and in the lower fereral courts before the Supreme Court got around to acting. Unfortunately, this same structural problem affected the speed at which the order was initially given.

It is a common practice for the Supreme Court, after it makes its final decision, to remand a case back to the District Court for implementation.[30] At the time of the reading of Brown II in 1955, which was supposed to define how the order was to be implemented, there were fifty-eight federal district judges serving the states with legally segregated school districts.[31] Because the justices gave no precise guidelines for implementation in Brown II, this meant that fifty-eight different interpretations of what desegregation meant were available immediately. As implementation of the order dragged on for twenty-nine years, deaths, retirements and expansion of the order to other parts of the country brought many more judges into the picture.

It is not surprising that interpretations of the order varied so widely.

Despite the prestige and awe with which to the Supreme Court is held in the wake of such decisions as Brown, the federal court system of which it is a part, actually has very little power to enforce its own rulings. The courts can declare those who defy their decisions in contempt and order fines or imprisonment but the very size of Brown's impact made such tactics impractical.

Instead of applying its own power, the courts rely on the legislative branch to pass laws which support the decision and the executive branch to actually provide enforcement. Especially in the first years following the Brown case, neither branch showed much enthusiasm for assisting the Court.

President Eisenhower was in office when the decision was handed down. Despite the importance of the question to the nation, and despite the critical need for the support of the Presidency in order that Americans accept it, Eisenhower refused to ever say whether he agreed or disagreed whth the decision. In 1956, he made this comment concerning the Brown decision: "I think it makes no difference whether or not I endorse it. The Constitution is as the Supreme Court interprets it, and I must conform to that and do my very best to see that it is carried out in this country."[32]

Such a statement implied disapproval in its very lukewarmness. His actions backed up this perception. Repeatedly Eisenhower spoke about the limits of the law's power to change the minds of men. He did nothing to try to counteract the movement by southern legislators

to sabotage the system. In two separate cases in 1956, court orders in Alabama and Texas were defied; Eisenhower did nothing. Not until 1957 when Arkansas Governor Faubus stationed national guardsmen at a Little Rock high school to keep out blacks, did Eisenhower finally take action. He sent in paratroopers to ensure the admittance of the students.

Speaking of this lack of executive action, former Justice Tom Clark said, "If Mr. Eisenhower had come through, it would have changed things a lot."[33]

Executive action at the state level was not much better in the early years and in some cases was obviously worse. Governor Faubus' actions have already been mentioned. He referred to the paratroopers sent to Arkansas by Eisenhower as "occupation forces".[34] When black children, with the aid of federal courts, tried to enter public schools in Virginia in 1958, Governor Lindsay Almond ordered the schools closed.[35] Governor George Wallace personally stood at the doors of the University of Alabama to keep black students out. Other southern governors reacted in similar ways.

President Kennedy was much more sympathetic than had been Eisenhower or the southern governors, toward enforcing civil rights. The government intervened in many school desegregation cases on the side of black petitioners during Kennedy's short administration. In contrast to Eisenhower's grudging acceptance of the Brown decision, Kennedy, in 1963, spoke out forcefully on national television. He stated:

> We preach freedom around the world and we mean it. And we cherish our freedoms here at home. But are we to say to the world-and much more importantly to each other-that this is the land of the free, except for the Negroes; that we have no second class citizens, except Negroes; that we have no class or caste system, no ghettos, no master race, except with respect to Negroes?

In June of that same year, he sent to Congress a strong civil rights bill, that, among other things, gave the Attorney General the right to institute suits to protect constitutional rights in education.[36]

President Johnson pressed through passage of this and many other bills and programs beneficial to blacks after Kennedy's death in November of 1963. His successors, Nixon and Ford, were not as kind, however. Both men placed heavy emphasis on "states rights" which meant that the states should rule on the conduct of public education, not the Supreme Court. Nixon saw the school desegregation issue as a means of promoting his "southern strategy." This meant that Nixon hoped to bring the traditionally Democratic, but very conservative south under the wing of the Republican Party.[37]

Two Nixon speeches on school desegregation illustrate this attempt to woo southerners and others who opposed desegregation. The first was given in March of 1970. Nixon promised that his administration would not initiate action to force school districts to adopt busing plans in order to overcome segregated schools unless the federal courts ordered them to do so. Further, he drew the distinction between <u>de jure</u> and <u>de facto</u> segregation. His administration would only consider the former in need of federal remedy. Even in those school districts where <u>de jure</u> segregation

could be shown, the president offered latitude to local districts to consider cost, capacity and convenience for parents and pupils when considering how to bring about desegregation. Finally, he said that his administration would not expect schools to achieve the kind of multiracial society that the adult world had been unable to construct.[38]

The second speech was directed primarily at the use of busing to achieve desegregation of public schools and was given to Congress on March 17, 1972. Nixon offered no constructive suggestions for helping the desegregation process along. Instead, he first stated that the process of purging the old, dual school system from the nation was already substantially complete. The problem that he then addressed was not how to finish the desegregation process, but how to avoid one of the tools used in that process.

Nixon emphasized that school children were being bused for long distances away from their own neighborhoods to schools that were inferior and unsafe. That minority students had attended and would continue to attend those schools was not at that point a consideration. He stated that the lower federal courts had gone way beyond what most people considered reasonable in their attempts to bring about desegregation.

He then called upon Congress to set guidelines that would govern school desegregation orders. Specifically he asked that Congress immediately stop all new busing orders until July 1, 1973 or until specific governing legislation was passed, whichever came first. Secondly, Congress should establish uniform national criteria

concerning desegregation orders such that all parts of the country would be guided by a common set of standards. The moratorium on busing was needed because the courts should not plunge ahead when what the nation needed was "an atmosphere that permits a calm and thoughtful assessment of the issues, choices and consequences."

Nixon closed this speech by mentioning that attempts were at that time being made to ban busing for purposes of desegregation by Constitutional amendment. While he seemed to favor such an amendment, he emphasized that it would take too long to reach fruition. Therefore, the moratorium on new busing was needed, too.[39]

These two speeches were obviously aimed at that portion of the electorate which opposed desegregation. While Nixon never openly spoke out against desegregation itself, his words could have had no effect but to encourage those who fought against implementation of desegregation orders.

President Ford was no more supportive. In the midst of the desegregation crisis in Boston, he made this statement concerning Federal Judge Garrity's busing order: "I have consistently opposed forced busing to achieve racial balance as a solution to quality education, and therefore, I respectfully disagree with the judge's order".[40] Though Ford went on to say that the citizens of Boston should still obey the law, his words could not but have encouraged the strife that already existed in the city.

If executive action could be considered lukewarm, the actions of legislators in the years immediately after Brown could only be described as cool. In 1956 more than one hundred Southern senators

and members of the House signed a document which became known as the Southern Manifesto. This paper, officially titled the "Declaration of Constitutional Principles." recommended that Brown be reversed. It was, the document claimed, devoid of any legal basis and in violation of the Constitution. They accused the Supreme Court of abusing its power.[41] Among southern senators, only Lyndon Johnson of Texas and Albert Gore and Estes Kefauver of Tennessee failed to sign the document. Only twenty-three southern House members failed to sign. The document, which was drafted by Senator Sam Ervin, later to be chairman of the Senate Watergate Committee, stated that the Brown decision had created:

> Chaos and confusion in the states principally affected. It is destroying the amicable relations between the white and Negro races that have been created through 90 years of patient effort by the good people of both races. It has planted hatred and suspicion where there has been heretofore friendship and understanding.[42]

Such a statement by so many members of Congress probably strengthened Eisenhower's desire to avoid taking a positive stance on desegregation and, without a doubt, encouraged southern school boards, federal judges and state legislatures who wished to delay and avoid implementation of the order.

The national legislature did pass a fairly weak civil rights bill in 1957, but it was only during the furious activity of Lyndon Johnson's "Great Society" that substantial legislative action occured to help implement the spirit of Brown. Unfortunately, even Johnson's efforts were watered down by the conflict in Vietnam and the fact that most of the programs were underfunded, considering their goals, and

often poorly managed.[43] Probably the two most effective of these were the Civil Rights Act of 1964 and the Voting Rights Act of 1965.

The Civil Rights Act of 1964 attacked many areas of discrimination which together supported the call for equal education. These included voting rights, desegregation of public facilities and accomodations and equal opportunity in employment. Its direct effects on school desegregation were to allow the Commissioner of Education to withhold federal funds from school districts that practiced discrimination and to allow the Attorney General to directly bring suit against such school districts in federal courts. Both actions had economic impacts. Discriminating school districts could lose federal funds and black parents and organizations such as the NAACP were relieved of some of the financial burden of bringing suits.[44]

The Voting Rights Act of 1965 allowed federal registrars to directly register blacks for voting in areas where blacks had only voted at great peril. It was this act which helped blacks to establish themselves as a voting bloc which can have substantial impact on elections, both at the national and local levels.[45]

Encouraged by the early reluctance of the national legislature to support desegregation, state legislatures in the affected states were openly hostile towards the Brown decision and aggressive in their attempts to thwart it. A special session of the Virginia legislature was called in 1956 to hold back desegregation. Twenty-three separate measures were passed towards that end including efforts to rid the state of the NAACP. Among these were laws that called for closing any school that enrolled a child from a different race than that which it

previously enrolled and compensating the parents of students from such schools from public funds in order that they might attend private schools.[46] In the ten years following Brown, state legislatures passed almost two hundred laws designed to protect and keep segregation and to frustrate implementation of the decision.[47]

Thus the division of power in our system of government stood, for the most part, as a barrier to implementation of the Brown decision. Congress could have passed laws to force fuller and more rapid compliance. In general, they did not. The executive branch could have used the justice department and its other administrative weight to encourage compliance. In general, it did not.

The traditions of our federal court system have also hampered implementation of the Brown decision. One such tradition is the principal known as "stare decisis" which can be loosely translated as "let the decision stand".[48] In general, federal judges try to rely on and perpetuate those decisions made by federal courts before them. This makes a truly new policy, such as school desegregation, difficult to implement because it both violates previous decisions (separate but equal) and has no precedent upon which to build. Those district judges that did not agree with the Supreme Court's decision were quick to find older cases that backed up their view of how schools should be organized.

A second such tradition is the reluctance of federal courts to overstep the facts and requirements of the case at hand. Even though a more elaborate, far reaching declaration might seem advantageous in the long run, the court generally refuses to take any more steps than

are required to solve just the problem at hand.[49] Again, those lower court judges who wished to thwart desegregation could bring about interminable delay by restricting their rulings as much as possible such that suit after suit was required in order to reach the final goal.

A second broad category of problems that stood in the way of successful implementation of the Brown decision is that of communication. Clear, concise communication of intent is vital if policy is ever to be implemented as desired by those who formulate that policy. While the Brown decision left no doubt that the Court wanted segregation in public schools to end, it was extremely vague about how to accomplish desegregation.

In the first place, Chief Justice Earl Warren's decision was purposefully written in broad, open language. Warren had believed that unanimity of the Court was very important in a case that would have such widespread implications. To achieve unanimity, he had to make compromises that would convince wavering justices to support the decision. Justice Frankfurter, for example, had been concerned that a favorable decision on school desegregation would be an admission that the Court had been wrong in numerous other cases stemming from the separate but equal doctrine.[50]

It must be remembered that the Supreme Court is a collegial body. Every justice participates in every decision and has an equal vote in deciding how a case will be handed down.[51] The court is made up of nine individuals, none of whose job is endangered by his decision and

each of whom can interpret the law as his training and conscience dictates.

Perhaps most important in Warren's wording was the phrase which was to guide how quickly the decision must be implemented. He only stated that the effort must by carried out "with all deliberate speed".[52] While a few people placed emphasis on the word "speed", it was much more common to emphasize "deliberate". Especially in the south, those officials responsible for implementation resorted to every conceivable delay that they could invent. A discussion of the tactic of delay is included later in this chapter.

Finally, the decision gave no specific guidelines for implementation. As already mentioned, the Supreme Court remanded to the federal district courts the task of devising desegregation plans for their areas of jurisdiction. As a result there has been little uniformity in formulation of desegregation plans. The lack of concrete direction from above left the lower court judges to go their own way.

Allowing district courts to work out the details of desegregation violated another tenet of successful communication. There were large distances between those who formulated policy and those who were to carry it out. Since the decision had little initial grass roots support, it must be considered a "top-down" decision. It is difficult to implement top-down policy in very large organizations. The organization that the Supreme Court was working with extended to thousands of local communities. It included district judges, local school boards, superintendents and even teachers. Many of these local

implementors were so far away from Washington, D.C. that they felt little immediate pressure to even try to find out what the Supreme Court wanted. The decision to allow implementation to be handled locally turned implementation into "bottom-up" instead of top-down.[53]

There was also a great deal of philosophical distance between policy makers and policy implementors in this situation. Many district judges had spent their lives and their careers defending the separate but equal doctrine. It was unreasonable to assume that all of them would fall in line with the spirit of the decision. The first case to be ruled on at the district level was Briggs v. Elliot[54] in South Carolina. Judge John Parker wrote the opinion in a manner that served as an example of evasiveness that school districts throughout the South would emulate. He said that:

> A state may not deny to any person on account of race the right to attend any school that it maintains...but if the schools which it maintains are open to children of all races, no violation of the Constitution is involved even though the children of different races voluntarily attend different schools, as they attend different churches. Nothing in the Constitution or in the decision of the Supreme Court takes away from the people the freedom to choose the schools they attend. The Constitution, in other words, does not require integration. It merely forbids discrimination.[55]

With this kind of direction it is not surprising that school boards were in no hurry to change the social fabric of their communities.

Once the federal district court made its initial order in a desegregation case, many other layers of government had the opportunity to misinterpret the Supreme Court's vaguely communicated intentions and thus impact implementation. The actions of state chief executives and legislatures have already been mentioned. Most states

also had departments of education or state school boards that attempted to interpret the decision and issue directives.

Thus, even when a district judge did make a ruling requiring desegregation of a school district, making a success of the order within the schools was difficult. A large school district is itself an organization with many actors and many levels of control. A decision must pass from the school board to the superintendent, to the central office staff, to the school principals and finally to the teachers who directly interact with students. At each level the decision may be interpreted somewhat differently so that compliance may not take the form intended or may not occur at all.[56]

Many times policy which has been formulated at the distant top of the organization flounders because it does not receive the support of what Michael Lipsky has called street level bureaucrats. Such people have considerable discretion in carrying out their duties.[57] Principals and teachers are good examples of such bureaucrats. Their cooperation was essential if desegregation was to be smoothly implemented in the schools, yet such cooperation was not always cultivated. Robert Crain, Rita Mahard and Ruth Narot, in their book titled Making Desegregation Work, attach special significance to the role of the principal in successful implementation of school desegregation. They point out that, as top administrator, the principal can influence school policy and the behavior of his staff. He is the symbolic leader of the school and, as such, does much to establish the school's reputation in the eyes of its students.[58] Willis D. Hawley has pointed out that when teachers are sympathetic

and responsive to minorities, much is done to alleviate the fears and concerns of those students.[59]

A third broad catagory of problems related to implementation of school desegregation orders involves reasons for noncompliance by individuals. No matter how well or how poorly a policy is communicated, the greatest obstacle to its successful implementation is the support given to it by the citizens of the nation. As was proven by Prohibition, a law that is very unpopular with large numbers of citizens is hard to enforce. For a number of reasons, noncompliance with the Brown decision was, to many people, worth the price that disobeying the law might bring.

In their article titled, "Civil Rights Policies and the Matter of Compliance", Charles S. Bullock and Harrell R. Rodgers, Jr. list many reasons why individuals choose to comply, or not to comply, with decisions of law.[60] Most laws, Bullock and Rogers claim, are obeyed indifferently because the citizen does not see in it any relevance to his own life. When the citizen does disagree with a law, they claim that he, at least unconsciously, employs a cost-benefit calculus to determine whether compliance is worth the cost, assuming that a penalty would be assessed. An examination of many of the factors considered by these two men shows obvious application to a consideration of compliance with the Brown decision.

The citizen may first be convinced that there are sufficient negative aspects to a law or decision to force noncompliance. The Brown decision asked whites to overcome centuries of subjugation of blacks. Southerners, especially had had the inferiority of blacks

ingrained on their minds since birth. Whether they chose to openly admit it or not, large numbers of them did not wish to take the step towards equality of the races that the Brown case could bring. Because so many people disagreed with the decision, compliance with it could bring considerable pressure from one's fellow citizens.

The opposite effect was also true. Noncompliance could bring the social approval of fellow citizens who disliked the decision. Even though George Wallace lost his confrontation with the federal marshals, his popularity grew after the incident at the University of Alabama.[61]

A decision is more likely to be rejected if individuals do not perceive it as legitimate. Many people in the South did not believe that the Supreme Court had the right to make such a ruling. "Impeach Earl Warren" became a popular slogan. Some citizens in Boston made the same complaints about Judge Garrity's rulings there. They accused him of being a tyrant.[62] It was common in both the south and New England, however, to just as strongly defend decisions by the Court that coincided with the local viewpoint.

The attitudes of the local community elites also have great effect on whether or not individuals are willing to violate a law. Especially in the South during the first years after Brown, there were few leaders who spoke out in favor of the decision. Many disagreed with the decision personally while many more refused to support it because they did not wish to endanger their standing in the community. Various leaders responded in different ways. The positions of such leaders, whatever they might be, exercised great

influence over citizens who were uncertain about whether to comply with the decision or not. A negative attitude by leaders was often transferred to the local populace as a whole and noncompliance became widespread.

Other reasons for noncompliance by individuals include demagogism, fear of conflict, unwillingness to admit past mistakes, the need to conform to a community norm and to be liked by one's neighbors. All of these were strong factors when considering school desegregation, since few people seemed able to discuss the subject in an unemotional manner.

A final consideration in an individual's decision not to comply with a law concerns the willingness of government to use coersion to force compliance. In the South, where most law enforcement officers were against the ruling, the government was unwilling, or at least reluctant, to force compliance with the law.[63] Many people will choose compliance rather than face jail or heavy fines. Neither happened very often when school desegrgation was considered.

Still another important reason why it has been possible for American school systems to avoid the desegregation called for by Brown, is that opponents of the decision have been able to focus on secondary issues that camouflaged the true issue of integration. First of all, they claim that desegregation hurts the education of majority students because of the many disruptions and because it is necessary for teachers to go more slowly while minority students catch up. However, in his article titled "The New Mythology of School Desegregation." Willis D. Hawley points out that "virtually every

researcher who has examined the impact of desegregation on white children points out that their academic achievement, as measured by conventional standardized tests, is not negatively affected."[64]

Those who voice such fears suggest that the school systems should just build up and improve minority schools.[65] By offering something in return, it is hoped that there will be less minority pressure for compliance with the initial ruling. Such suggestions fail to point out that the course suggested would lead many school systems, some of which suffer from widespread de facto segregation, right back to the old days of separate but equal. Many generations of minority students have already suffered from that theory's effects.

Secondly, opponents of desegregation attack the court orders that initiate it because they say control over education is being taken away from the local school district. They argue that an appointed federal judge has usurped the powers of officials that they elected. This argument was used vociferously in Boston against Judge Garrity. He became the evil problem to be overcome rather than poor quality education for minority students.[66]

Thirdly it is argued that forced integration was bad for the community because it initiated "white flight." In order to ensure that their children did not have to attend poorer integrated schools, white parents, supposedly, picked up and moved to the largely all white suburbs. While there has certainly been white migration to the suburbs and out of large cities, there are many other reasons for this exodus besides integration of public schools. Rossell and Hawley

found that only a minority of whites actually flee when a school system is desegregated.[67]

Charles Vert Willie cautions against asssigning a cause and effect relationship to school desegregation and white flight. He quotes a report by the Committee on Economic Development titled "Guiding Metropolitan Growth" that was published just after the Brown decision and before much implementing litigation had cleared the courts. It showed that rapid suburbanization had begun in the United States years before many cities were affected by court ordered integration. The report said that "middle income families with children have been departing for the suburbs since the end of World War II." Reasons for this movement were a desire for lower density living, advantageous federal mortgage incentives that favored single family residences found in the suburbs, public highway construction that made commuting easy, as well as education.[68]

Nevertheless, opponents of desegregation point to the white movement to the suburbs as a cause of deterioration of the city and use that argument against further desegregation. Willie, again, makes the point that white flight, no matter what its cause, should not be a legal consideration in school desegregation cases. The private choice of some individuals to change their place of residence does not provide justification for continuing to provide unequal and inferior education to a portion of the populace.[69]

Probably the most talked about aspect of school desegregation is the integrating technique commonly referred to as busing. It had been quite common to send black students considerable distances from their

homes to attend all black schools even though a white school was closer to home. When it was suggested that white students should be bused to other schools in order to achieve integration, however, it suddenly became a violation of perceived Constitutional and "God given rights" to not allow a child to attend the "neighborhood" school.

Busing was given Supreme Court approval as one tool for achieving desegregation in the decision titled Swann v. Charlotte-Mechlenburg Board of Education.[70] The court pointed out that if schools had provided equal educational opportunities, with no history of discrimination, it might be a good idea to assign students to the school nearest their home. Such equality had been anything but the case, however. Schools had deliberately discriminated against certain groups by maintaining segregation. Thus the court held that, "desegregation plans cannot be limited to the walk-in school."[71]

Several arguments have been used in protest against forced busing. One such argument was that busing students had an adverse effect on academic performance. James Davis, however, studied a large number of Southern desegregated school districts and concluded that "there is no evidence that busing per se has any negative consequences". He also concluded that their was little positive or negative academic effect to be found from being allowed to attend a neighborhood school.[72]

A second argument against forced busing is the expense of operating extra buses. Those who wished to halt implementation of busing orders pointed out that the money used to pay for buses could have gone toward improving instruction at those schools that needed

help. In reviewing such expenses, Gary Orfield found that busing for desegregation caused an average increase of only two percent of a school's budget.[73]

An extension of the busing argument is the plea for neighborhood schools. Opponents of desegregation have raised the idea that a child should attend a nearby school to an almost religious level. Busing has been made the villain in this fight for the neighborhood school.

Luis Fuentes, writing in Integrated Education in 1980, makes some interesting points about busing and the neighborhood school. Prior to 1960, many children were bused for much longer distances than those now required by the courts for desegregation purposes. In an Atlanta suburb, black children were taken on a seventy-five mile round trip by bus each day, even though there were white schools much nearer to their homes. Sturges, Mississippi did not have a black school and thus bused blacks to another town forty-six miles away.[74]

Prior to 1954, the courts specifically denied the utility of neighborhood schools on several occasions. In 1872 the state supreme court of New York denied the request of a black student to attend his neighborhood school by saying that, "The schools of Albany are the schools of the whole city. The school which is nearest to his residence is no more his than that which is most distant." In 1883 a black girl in Brooklyn, New York was denied the right to attend her neighborhood school by the state court. In Cincinnati black children had to walk four miles to a black school rather than attend a white school near their homes. The court there said, "Children cannot cluster around their schools like they do around their parish church."

As recently as 1952, black Wilmington, Delaware students were denied their request to attend neighborhood school by the Delaware Supreme Court. Citing authorities on education, the court said, "school attendance in one's own community is not an important attribute of educational opportunity".[75]

Marcus and Stickney point out that more than 2500 private schools designed primarily for whites-only education were opened in the South as a result of desegregation orders. They ask if it can be true that white parents are really opposed to transporting students away from neighborhood schools in light of the fact that a high proportion of those students that attend these private schools get there by school bus, public transportation, private car or carpool.[76]

No matter what their motives, those who oppose busing to achieve desegregation of the schools have been ardent in their attempts to forestall implementation of such busing. They have been assisted by many prominent politicians. Richard Nixon's 1972 speech about busing has already been mentioned as has Gerald Ford's quote concerning Judge Garrity's busing order in Boston. George Wallace won Democratic primaries in 1972 and in 1976 primarily on the strength of his strong anti-busing rhetoric. A large number of bills have been introduced in Congress to curb such busing and several constitutional amendments have been considered.[77] None have drawn sufficient support to get through Congress, however.

All of this hoopla over busing as well as the other issues above tend to cloud over the real issue of whether or not the 1954 Brown decision is ever to be fully implemented. They tend to force the

doctor to treat the symptoms rather than the disease. These efforts, whether one agrees with them or not, are a very effective method of avoiding such implementation.

Still other problems that affect implementation of desegregation orders involve physical characteristics of school systems, the need for cooperation of professional groups and budgetary problems. The shapes and compositions of school districts do not always lend themselves to easy desegregation. It often requires considerable gerrymandering to draw school lines in such manner as is needed to effectively desegregate. This is because cities are themselves segregated due to past cultural norms, housing restrictions and economic differences between the races. White dominated school boards have aggravated the problem by purposefully building schools in places that would naturally serve single race student bodies. The Supreme Court ruled in Keyes v. Denver School District Number One[79] that this sort of activity had been carried out by the school board in Denver in order that their segregated school system might be maintained.47

Another deterrent to implementation of the Brown decision is the reluctance of teachers and their unions to go along with desegregation plans. As is true in almost any job category, those teachers who have the longest tenure have traditionally been given the choicest assignments. One effective method of encouraging both better education and better race relations was the movement of the better teachers to those schools most in need of help. A great many teachers in this category resisted such movement. Their unions backed them up.[80] Such teachers were often encouraged to flee to the relative

calm of the white suburbs that paid more, in order to avoid such assignments. Others just left the profession. Both situations had the effect of leaving the more difficult inner-city assignments to less experienced teachers.

Still another problem is that of the budget. Many of the techniques used to implement school desegregation cause an expenditure of additional funds above normal operating costs. The plan may call for busing that requires the purchase of additional buses and fuel. A frequent technique has been the establishment of magnet schools. These schools are supposed to be of superior quality and generally emphasize one or a few particular career fields such as fine arts, engineering, computer science or others. The purpose of such schools is to draw white children into black neighborhoods or the reverse, in order that they may attend the super school. Such schools at least require new equipment and repair. Frequently they call for extensive remodeling or even completely new buildings. Such things are quite expensive. Other expenses related to desegregation include those for minority faculty recruiting, additional security and court costs and legal fees for arguing about the decree in the first place.

As our economy worsens and as the Reagan administration continues to cut back federal funds, it becomes increasingly hard for school districts to come up with such funds.[81] Since desegregation was not the local school boards' idea in the first place, they are usually quick to point out how much the court's imposition is costing them.

The very fact that implementation has not come quickly in the Brown case also works against further efforts. It is very difficult

to maintain enthusiasm for any issue over a long period of time. Morton H. Halperin tells us that one effective technique to avoid implementation of an order is simply to delay one's actions. It is not necessary to refuse action. One can always promise to do what is required at a later date.[82] The public attention span is short. If action does not come quickly, people will move on to other problems.

The nature of the Brown decision fed this slowness. Grievances concerning desegregation were not settled in lump sums by comprehensive legislation. Each new aspect had to be brought up through the court system with all its natural opportunities for delay. District Judges normally gave school districts the opportunity to devise their own desegregation plans. First attempts were seldom acceptable, which led to negotiations and further court battles. As these proceedings dragged on and on, even those who had been initially committed to the fight were distracted by newer issues.

The passage of time aggravated another reason for lack of enthusiasm for implementation of the Brown decision. School desegregation addresses a minority problem. Both political and economic power in this nation are firmly in the hands of the white majority. Lack of political power deprives minorities of the ability to effectively fight for their rights. Lack of economic power deprives minorities of the means with which to sustain their fight and limits the training required to produce those quality leaders who can inspire the troops to win that fight.[83]

For all of the reasons detailed in this chapter, implementation of school desegregation orders has not come easily nor completely.

# CHAPTER III

## DALLAS: A CASE STUDY

Chapter II of this thesis provided an overview of problems faced by people throughout the nation who attempted to implement the Brown decision. Many of those national problems extend to Dallas. The poor job of communicating the Supreme Court's intent is one example. Had the justices been able to clearly define both what they wished school districts to accomplish as well as give direction for accomplishing those goals, implementation would have come much more easily. It is readily apparent from reading the early decisions of federal district judges in Dallas, as well as the declarations of school district officials, that the necessity of fulfilling the Supreme Court's desires was not successfully communicated.

Chapter III expands on this as well as other problems of implementation discussed in the previous chapter as they relate to implementation of desegregation orders in the Dallas Independent School District. Before discussing individual problems of implementation, however, a brief review of the history of the desegregation fight in Dallas is given.

The history of officially sanctioned segregation in Texas goes back to the years immediately following the Civil War. Prior to that time, there was no need for segregation in schools since virtually all blacks were slaves and received no formal education. The Texas Constitution of

1866 declared that income from the permanent school fund could only be used for the education of white children. It did allow, however, the legislature to levy a tax for education containing the stipulation that the portion of this tax paid by blacks should be used to pay for exclusively black education.[84]

During reconstruction, segregation was eliminated but the present constitution, which was ratified in 1876, reestablished separation while stating that the separate systems should be treated with impartiality. The Gilmer-Aiken Act, officially known as the School Program Act of 1949, strengthened segregation by prohibiting expenditure of any state funds for integrated schools.[85]

The public schools in Dallas were, of course, segregated when the Brown decision was handed down in 1954. Much like the situation described by Chief Justice Warren in Brown, however, Dallas schools were separate, but not equal. Prior to 1940, all blacks in Dallas had to attend one black high school, Booker T. Washington, which was located in north Dallas. For those who lived too far away to walk to this school, public transportation was generally the only alternative and the expense for such transportation had to be borne by the individual student or by his or her parents.[86] Charles Vert Willie relates that, by the time that he and his siblings attended high school in Dallas during the 1940's, a second black high school had at last been built in the southern part of the city. Nevertheless, they still had to pay their own fare to ride city buses several miles to Lincoln High, despite the presence of white high schools in their own western Dallas neighborhood.[87]

The initial desegregation suit in Dallas was filed in July of 1955, but Federal District Judge William Atwell declared in September that the request was premature. He stated that the Dallas Independent School District provided equal facilities and thus was in compliance with law (Bell v. Rippy).[88] In 1956, the Fifth Circuit Court of Appeals reversed Judge Atwell's decision and ordered that he hear the case. Atwell's response was to declare that the plaintiffs had failed to exhaust all administrative remedies and once again dismiss the suit. In Borders v. Rippy, in 1957, the Fifth Circuit again reversed Atwell. The district judge reponded with an order that the Dallas schoools be integrated immediately, beginning with the semester which started in January of 1958. The Dallas school board appealed this order (Rippy v. Borders)[90] and again the Fifth Circuit overturned Atwell's decision. They ordered Atwell to hold hearings, make findings and direct submission of a plan.

When no visible progress had been made towards segregation by 1960, blacks again appealed to the Fifth Circuit for aid (Boson v. Rippy).[91] The appeals court ordered the Dallas schools to adopt a stairstep plan by which one grade would be desegregated each year. In 1961, eighteen black first graders were finally allowed to enter a previously all white school.

It became apparent that the stairstep plan was bringing about very little desegregation, and, in 1965, the Fifth Circuit threw out the stairstep plan and ordered immediate desegregation of the entire school district (Britton v. Folsom).[92] The Dallas Independent School District did virtually nothing to do away with the dual school system, however.

They simply removed the legal barriers which officially kept blacks from attending white schools.

In 1970, black and Mexican-American parents again brought suit against the school district. In this suit (Tasby v. Estes)[93] the plaintiffs pointed out that, fifteen years after the first Dallas desegregation case, seventy-one of the districts 180 schools were ninety percent or greater white. Forty of the schools were ninety percent or greater black and forty-nine were ninety percent or greater of minority races. Of all the black students in the Dallas schools, 91.7 percent attended schools that were ninety percent or greater of minority races and only two percent of all black elementary students attended schools that were majority white.

District Judge William Taylor responded in 1971 with a plan that called for busing 7,000 students and the use of a closed circuit television system so that children of different races could look at and talk to each other. The Fifth Circuit almost immediately threw out the closed circuit television idea, but allowed the busing to commence in the fall of 1971.

In 1975, the Fifth Circuit finally vacated the entire 1971 order and ordered Judge Taylor to devise another plan of implementation. A group of business leaders called the Dallas Alliance then put together a plan that was accepted by Taylor in 1976. It called for creation of magnet schools and busing of children in grades four through eight. In 1977 the NAACP appealed the 1976 plan because it left 25,000 students in all black schools. The Fifth Circuit, in 1978, ordered Judge Taylor to either justify the 1976 plan or devise a new one.[94]

The case then became the concern of District Judge Barefoot Sanders. After numerous preliminary hearings and initiatives, Sanders issued a new comprehensive order on February 1, 1982 (Tasby v. Wright).[95] It called for reassignment of students at several elementary schools, the redrawing of attendance zones at three predominently white north Dallas high schools, six million dollars worth of new programs primarily for minority students and construction of a forty-four million dollar comprehensive magnet high school. It did not ask, however, for greater amounts of busing for purposes of desegregation. Parts of this decision were also appealed and the Fifth Circuit has yet to hand down its final ruling on all of the appeals.

The amount of time covered by the above history of desegregation cases in Dallas exceeds twenty-eight years. This points out the first and most effective means by which Dallas has been able to avoid implementation of the many orders to desegregate its schools. The main tactic used to avoid desegregation since the initial reading of the first Brown decision has been that of delay.

The May 18, 1954 headline of a Dallas Morning News front page story that covered the initial Brown reading stated, "Long Delay Due Before Effect Felt." Several quotes from Texas officials that day furthered the call of that headline. Dr. J.W. Edgar, Texas Commissioner of Education, said "We hope the Supreme Court will give the states a reasonable time to understand this decision and the action which the state must take. They ought to allow three, four or five years to make it fully effective."[96]

Dr. Edwin Rippy, President of the Dallas Board of Education, said:

> In due time boards of education will undoubtedly be given legislative interpretation. Then it will be the responsibility and obligation of boards to implement whatever decision is handed down. But there is no immediate need to assess the requirements of any future statement.[97]

School Superintendent W.T. White echoed this theme:

> We'll have to have an interpretation at state level, that is from the Governor, Attorney General, Commissioner of Education and maybe even the legislature. The state Constitution sets up a segregation policy. I don't think a local school district is competent to judge and act on it alone.[98]

The president of the school board and the superintendent in Dallas claimed justification for delaying action by denying responsibility. In an organization such as a state system of public schools this is easy to do because there are so many different levels of responsibility and authority. The superintendent is the chief administrator, but he serves at the whim of the school board and the school board is subject of direction from several sources. A state agency, represented by the Commissioner of Education in 1954, provides direction. The state legislature establishes the laws which govern operation of the schools and provides funding. Perhaps most directly influential are the desires of the voters who elect the school board members. Each board member knows that if he fails to satisfy the wishes of the voters, he may not be returned to office.

A May 19, 1954 Dallas Morning News headline stated "No Rush Seen in Texas Shift." In this article, Governor Allan Shivers predicted that the Brown ruling would not affect Texas schools, at least for the coming year, since Texas had not been a party to the suit.[98] This point

emphasizes how court procedures themselves helped delay implementation of desegregation orders throughout the nation, including Dallas. Dallas was not forced to even consider desegregation until a suit was actually brought against the local district. If the state of Texas or its local school districts chose to continue operating under a law similar to one from another state that had been declared unconstitutional, no action would ever be taken to stop the state or school district from doing that unless a suit were brought against them. In other words, new direction by the Supreme Court is not automatically implemented. It is sometimes necessary to bring numerous suits throughout the nation in order to force implementation.

Again, when Brown II was read in 1955, the emphasis in Dallas and throughout Texas was on the need for delay. A June 1, 1955 headline on page one of the Dallas Morning News pointed out that no specific deadline had been set for ending segregation. In another article from the same page, Superintendent W. T. White again said that action had to come from the state. "We are a creature of the state and we will not deliberately flout any state laws."[100]

Considering the time taken by local districts such as Dallas to formulate desegregation plans, the implementation process probably could have been more efficiently carried out if the state legislature had dictated rules for the local districts to follow. This did not happen, however. Governor Shivers refused to call a special session of the legislature to deal with desegregation. Instead he appointed a seven man committee to help local school boards deal with the problem. Cecil A. Morgan, whom the governor named to chair the committee, summed up the

state's position on desegregation by saying, "In the final analysis the local district will have to do it. The state board can't say: 'You're going to do this'."[101]

This abdication of authority by the state left local districts to bear the full brunt of the desegregation problem and it was at the local level that blacks, primarily through the NAACP, focused their litigation. In Dallas, this meant bringing suit in federal District Judge William Atwell's court. Atwell shared none of the Supreme Court's enthusiasm for desegregation and proved a valuable ally of the school district as it attempted to delay emplementation. Atwell twice delayed even the semblance of hearings on desegregation. He first fell back on "separate but equal" to rule that, since the school district was providing equal facilities, the suit was premature. The plaintiffs appealed, but a year passed before the Fifth Circuit ruled on the merits of the decision. When they ordered Atwell to hear the case, he again caused delay by declaring that the plaintiffs had not exhausted all other remedies. Again he was overturned, but again another year had passed.

Even at this point he did not hear the case. Atwell simply ruled that the school district had to desegregate immediately, with no guidelines as to how that should be accomplished. Looking back, it now seems that such immediate implementation might have been a good idea. Perhaps some of the fears that have been allowed to slowly grow over time could have been avoided by a quick thrust. The appeals court did not allow this, however, and, keeping Judge Atwell's record perfect, they again overturned his decision. Whether the district judge planned it that way or not, his efforts had caused another delay.

At last, hearings on desegregation in Dallas began. This initiated the interminably slow process of allowing the school district to produce its own plan of implementation. Such procedure calls to mind two comparisons. The first is our government's practice of choosing leaders of industry to serve on regulatory boards that are supposed to regulate their own industry. Not surprisingly, regulations from such men seldom adversely affect the industry's actions or its profit margin. The second comparison is that of a child that is asked to name his own punishment. He is unlikely to call for anything that he considers very painful.

Such was the case with school boards. As Willie points out in The Sociology of Urban Education, the school board members who formulated or approved of desegregation plans were politicians who were much more interested in pleasing their constituents than they were in providing good education for minorities.[102] The procedure in Dallas was to give in as little as possible each time the district's hand was forced.

Following the Fifth Circuit's 1957 overturning of Judge Atwell's order for immediate desegregation, the school district was asked to formulate a desegregation plan. By 1960, they had still produced no plan at all. At that time, the Fifth Circuit again supported the plaintiffs by ordering the school district to submit a plan within thirty days. The school district finally complied by submitting the desegregation of one grade per year, stairstep plan.

A new judge had taken over the case by this time. Judge Davidson again added to the delay by disapproving the stairstep plan and calling for one which allowed parents to choose what kind of school their

children attended. The school district complied and Judge Davidson approved that plan in May of 1960 (Borders v. Rippy).[103]

Such an arrangement would have resulted in very little integration. It is unreasonable to assume that many white Texas parents in 1960 would have elected to send their children to anything other than an all white school. The blacks again appealed but a new school year had again started by the time that the Fifth Circuit vacated Judge Davidson's decision in Borders v. Rippy[104] and ordered implementation of the stairstep plan (Boson v. Rippy).[105] This November decision again forced more delay by saying that the new plan could wait until the beginning of the following school year.

The new plan resulted in only token integration, however.[106] Another four year delay resulted in another appeal to the Fifth Circuit. In 1965, in Britton v. Folsom, the appeals court threw out the stairstep plan and ordered complete desegregation. The school district again responded by giving only a minimum amount of desegregation and after five more years the plaintiffs again made their way to the Fifth Circuit.

Thus, a pattern of delay is apparent. The courts order that the school district desegregate the schools and they respond with something less than complete compliance. Because thay have given in somewhat, they claim that they are trying and call for patience from both the plaintiffs and the courts. As the actions of federal district judges described above indicate, the schools received much sympathy and support from the courts in this delaying effort.

Public opinion also supports the school district's cries for patience, and thus delay. Several quotes from public officials in the early days of the desegregation effort that call for delay have already been cited. Such utterances are still quite common. In fact, it has become common to attack the minority plaintiffs by saying that they ask for too much, too quickly and, ironically, that they are trying the patience of white parents.

In an editorial in the Dallas Morning News on February 3, 1982, the editorial writer, in regard to Judge Barefoot Sander's desegregation order issued two days before, states that, "Sanders has presumed on the patience of those white parents, largely in North Dallas, who have stuck with the DISD through thick and thin, hoping that somehow public education could be salvaged." Further along in the same editorial, the writer states, "He (Sanders) is asking parents, their patience stretched thin already, to wait longer and see how his plan works out."[108]

Somewhere along the way this writer has managed to forget who the injured party is. He ignores the decades of educational neglect of minorities in favor of the perceived inconvenience that the thinks may now be visited upon north Dallas whites. Such public support encouraged the school district to continue to fight implementation.

On March 26,1982, Dallas Morning News editorial columnist Ann Melvin echoed this same idea. She blamed the lengthy desegregation proceedings on the NAACP when she stated that, "The few of you left with the energy to care are probably wondering when the NAACP will ever be satisfied on school desegregation results."[109]

The tactic of delay has been used throughout the twenty-eight years since the desegregation issue first came to court in Dallas, but many other tactics and excuses have been used as well. In the early years, demagoguery and open racial bigotry were used. Such tactics are not unheard of, even today, though the bigotry is generally packaged less conspicuously.

Some of the best examples of open bigotry can be found in the utterances of Texas public officials immediately following the Brown v. the Board of Education readings.[110] One east Texas legislator called for closing the public schools rather than allowing desegregation. Another, Representative Jerry Sadler, demanded that a constitutional amendment be ratified to prevent integrated schools in Texas and the south. He said that the Supreme Court had fallen for "leftwing Communist propaganda" when it overruled separate but equal. He even advocated leaving the United States if necessary to avoid compliance with Brown.[111]

More examples can be found in the opinions written by the first two federal district judges to hear Dallas desegregation cases. Judge Atwell, in Bell v. Rippy[112] in 1956, asked what desegregation would mean to Negro teachers. "Is it possible," he asked, "or probable, that the colored teachers would be hired to teach the white pupils?"

In Judge T. Whitfield Davidson's 1960 opinion (Borders v. Rippy)[113] the judge gave a long discourse on the history of black people in the United States that can at best be called patronizing. He pointed out several countries where he believed that integration had caused trouble as opposed to other, non-integrated societies where life proceeded

smoothly. Refering to integration, Davidson stated, "It has retarded the development of every land where it has occurred."

Another tactic used to avoid implementation of desegregation orders in Dallas has been effective use of the structure and procedures of the court system. Brown II remanded the implementation of desegregation in Dallas to what can only be described as a hostile district court. Despite two orders from the Fifth Circuit, Judge Atwell refused to even hold hearings to discuss desegregation for over two years. Judge Davidson's answer to desegregation was a voluntary plan that would have had little effect on the distribution of students in Dallas.

While the Fifth Circuit Court of Appeals has generally ruled in favor of the minority plaintiffs, they have not generally given specific, positive directions that the school district had to follow. Their directions have tended, instead, toward setting deadlines by which time plans had to be submitted (Rippy v. Borders),[114] choosing between alternatives presented by the school board (Boson v. Rippy),[115] or simply ordering the district court to formulate a new plan to replace the status quo (Borders v. Rippy,[116] Britton v. Folsom,[117] Tasby v. Estes[118]). Furthermore, the Fifth Circuit has often been quite slow in answering appeals.

The district court has slowed down proceedings by insisting that all administrative remedies be exhausted and by allowing numerous outside groups to intervene in the hearings. Besides the plaintiffs and the school district, several parents' groups, the Dallas Alliance and the NAACP all submit briefs and at times participate in the proceedings.

Perhaps that aspect of the courts that has most adversely affected implementation of the desegregation orders is the lack of finality in court proceedings. The opportunity for appeal never ends. Desegregation of the public schools involves too many people. It is not like a criminal case in which the state seldom appeals a verdict and the defendant has only a limited possibility of appeal. It is not even like a normal civil suit that is primarily one party against one other party. A school district like Dallas with many thousands of minority students has many thousands of chances to renew the drive for desegregation. What was at one time an even larger number of whites, have an equal chance to intervene against or to appeal each order of the court.

This dynamic, ever changing nature of the Dallas school system helps to explain why implementation has not been fully achieved. Even though progress may have been made in Dallas, in that there is no longer as much obvious official segregation, black parents still see their children attending inferior schools and they want more improvement. Most of those parents were not parents when the fight began and thus they do not make a comparison that tells them that their children are better off now than were black students in the 1940's. Likewise, white parents of 1983 do not feel that they are to blame for the past educational ills visited upon blacks and they are quick to use the courts to try to hold on to what they perceive as their neighborhood schools. Thus, while Bell and Rippy of Bell v. Rippy[119] may have passed from the scene, the same questions have been renewed in the courts over and over again with new students and new school board presidents.

Another argument used against further efforts to implement desegregation orders is the expense of implementation. One obvious expense is that of attorney's fees to fight desegregation orders. Between the the beginning of the most recent desegregation case in 1970 and Judge Sander's court order in February of 1982, the Dallas Independent School District paid out approximately 1,200,000 dollars to its own attorneys and another 88,000 dollars that the court forced them to pay towards the plaintiffs' court fees. In addition, the plaintiffs in the the case have asked that the school district be forced to pay another 900,000 dollars in legal fees built up since 1976.[120]

Court ordered busing is another expense. While opponents of desegregation have focused on this particular outlay, the amount spent for busing is minute when compared to other expenses such as magnet school construction and and the cost of remedial programs. The 1982 desegregation order alone asked for 44,000,000 dollars for magnet school construction and an additional six million dollars for remedial educational programs. Such dollar amounts seem quite large to taxpayers who had little interest in desegregation anyway.

Funding problems have been aggravated in the past few years by two related happenings. The election of Ronald Reagan in 1980 brought severe cuts in federal support to education. The Reagan administration's proposal for block grants called for a loss of more than fifty percent of the 2,500,000 dollars that the Dallas schools received in the 1981-1982 school year to aid desegregation efforts and for pilot programs aimed at improving teaching methods and instruction.[121]

Title I federal funds for the district were reduced by 2,100,000 dollars, as well. Some of this money had been used to pay for a remedial summer school program in reading, math and writing.[122] Such programs had helped to make implementation of desegregation orders go more smoothly by helping to bring scholastic scores of minority students closer to those of whites. Cutting of federal funds for such programs required that the Dallas school district either assume that financial burden or give up the advantages of the program. Either alternative made further implementation of desegregation orders more difficult.

The second problem that increased funding difficulties in Dallas was that of fraud and mismanagement. The school board created a now defunct organization called the Foundation for Quality Education. It is estimated that this organization lost 1,400,000 dollars in tax money with virtually no results. Board member Jerry Bartos has stated that the board overpaid a company for new boilers by 1,700,000 dollars. In all it is estimated that the school district lost as much as ten million dollars to fraud and gross mismanagement between 1975 and 1980.[123]

Like other opponents of desegregation throughout the nation, those who wished to block or delay implementation have successfully taken the focus in desegregation cases away from educational inequities and onto some very volatile substitute issues. The four primary examples of such alternate issues used in Dallas are states rights, the ruining of existing quality education, busing and white flight.

Especially in the early days of the desegregation effort in Dallas, both local and state political leaders complained bitterly that the

federal government, through its court system, was taking away responsibilites that had long belonged to states or local governments.

Todd Mitchell, a candidate for congress in 1954, called the Brown decision "an outrageous violation of State's rights."[124] In 1955, after the reading of Brown II, there was a great deal of praise for the Supreme Court's decision on implementation because it was interpreted as having given the task back to state and local governments. A headline on page one of the Dallas Morning News of June 1, 1955, the day after the reading, stated, "Court Leaves Integration to Local Levels."[125]

In a Fort Worth Star Telegram article of this same day, Attorney General Sheppard said Texas would "exhaust every legal remedy before giving up any of the state's sovereign rights".[126]

In a column on the editorial page of the June 6, 1955 Dallas Morning News, writer Lynn Landrum states, "And until the sociologic decretalists on the Supreme Court dreamed up this decision, Congress didn't dream that it had a right to tell Dallas, Texas what to do about Dallas, Texas schools."[127] By focusing such outrage on the federal government's usurping of state and local power, it was possible to attack desegregation without sounding openly racist.

The states rights theme has evolved in recent years into the cry for neighborhood control of the schools. Encouraged by similar appeals throughout the nation, white Dallas leaders and writers have complained bitterly about the loss of neighborhood schools. Ironically, this same appeal was make by black parents in some of the early Dallas litigation. The plaintiffs in the 1957 case, Borders v. Rippy,[128] asked for their children to be able to attend a school in their own neighborhood located

just four blocks from their home. Instead, they were forced to attend an all black school which was eighteen blocks away, across heavy traffic.[129]

A second alternate issue used to attack desegregation has been the argument that the quality of education has suffered because of the implementation of desegregation orders. Much attention has been focused upon the poor comparison of test scores for Dallas children versus the nation or state as a whole.

The August, 1983 issue of D magazine included a table that compared Texas Assessment of Basic Skills scores of students in Dallas and eleven other large school districts in the Dallas/Fort Worth area. Dallas students had the lowest average scores in reading and writing of any of the schools and was just edged out for last place in mathematics by the Fort Worth Independent School District. Average scores in Dallas were fifteen to twenty percentage points behind the better schools in all three skill areas that were reported.[130]

Two points must be made when considering the argument concerning the quality of education. As pointed out in Chapter II of this thesis, just about all research indicates that test scores of white children are not affected by desegregation. Karen Rogers of the Office of Desegregation Monitoring of the Dallas Independent School District confirms that this is also true in Dallas. Test scores of white children in Dallas have not declined since the initial implementation of desegregation orders in Dallas.[131]

The second point that should be made concerning test scores is that it is not possible to establish a cause and effect relationship between

poor test scores and desegregation. There are too many other variables that cannot be isolated in order to be able to test the relationship. A consideration of some of these other factors raises doubt about the significance of the relationship between desegregation and test scores.

The school district for many years followed a policy of social promotion that has only recently been modified. This policy, though its basis may have been humane, allowed many children to progress through the school system without ever mastering basic skills.

The open classroom concept forced teachers to hold class in buildings that provided no barriers against the sounds produced by everyone else in the school. Dallas teacher, Susan Melke, described the school where she taught in this manner:

> This is an "open concept" school, one of the great innovations of modern education, which did away with such old fashioned ideas as walls and classrooms. In front of me, in the middle of the hall, is the media center, marked by three-foot shelves arranged in a large square. To the right of the media center is the PE area, an open space with a portable basketball net on one side and other PE equipment stored on the shelves against the wall. To the left is the reading resource area where the special education and resource teachers hold their classes for children requiring special help. There is also a piano in the hall for music classes, and during the day it is not unusual to have children playing basketball next to children reading in the library, while the special education teacher tries to teach a second grader the alphabet, all accompanied by a piano and off-key voices.[132]

Other factors such as the economic standing of families hard hit by a wavering national economy, family breakdowns, loosening moral structures, low teacher salaries and other societal ills must also be considered before placing blame for low test scores.

Just as is true on the national level, school desegregation in Dallas has come to be linked in many minds with court ordered busing.

Busing was not used to help implement desegregation orders in Dallas until 1971 when approximately 7300 high school students were scheduled to be bused for desegregation purposes. This amount of busing was ruled inadequate in 1975 because it did not affect most of the school district's one race schools.

The 1976 plan increased the number bused to about 17,000 but restricted this busing to grades four through eight and did not call for busing outside of a student's subdistrict. This meant that, under the court order, only about twelve percent of the students in the school district would participate in court ordered busing. In reality the number did not reach even that level. The report of the External Auditor of the court in 1976 showed that only 12,916 students were actually being bused for desegregation purposes.[133]

The 1982 order did not increase the amount of court ordered busing. Of 173 Dallas schools examined by the external audit team and reported in June of 1983, seventy-three were considered desegregated and of these only twenty became desegregated because of busing. This means that, as of that report, less than twelve percent of the schools were substantially affected by busing.[134]

Both sides of the issue have complained about the amount of busing used in Dallas. The NAACP has used the inadequacy of busing plans as one reason for appealing court orders. When asked to review the affect of past desegregation orders, Sam Tasby, former president of the Dallas NAACP and father of the children whose name was used in two court cases, expresses disappointment. "It hasn't been satisfactory as far as

integration goes. I would have wanted them to go ahead and have more busing."[135]

White community leaders have taken the opposite position. City councilwoman, Rose Renfro, stated in 1975 that she would oppose "any plan that requires forced busing of a single child in the school district." At the same time, Mayor Wes Wise expressed concern for the safety of school children who would have to be bused.[136]

Following the 1982 order, an editorial writer for the Dallas Morning News blamed busing for the drop in achievement scores in the district. He said, "And the district will be stuck with busing, which has proved a costly way for the DISD to spin its wheels while achievement scores dropped."[137] Another editorial blamed busing for the decrease in the percentage of white children in the district. Of the 1982 order he said, "What is best about the plan is that it does not compass additional busing, the folly and futility of this judicial blunt instrument having long ago been recognized by whites and blacks alike."[138]

School board president John Martin, formerly the attorney for a white north Dallas parents group that had opposed further desegregation of their neighborhood schools, spoke out strongly against busing after the 1982 order. "I'm sure some individual kids benefitted some (from busing) but on the whole, we would have been better off with neighborhood schools and no busing.[139]

The fourth of the alternate issues used to combat desegregation is often mentioned as being a result of busing. In one of the editorials just quoted, busing was blamed for white flight. Opponents of

desegregation frequently point to the decline of the percentage of white students in the Dallas Independent School District as a reason why desegregation should be stopped or at least slowed down.

Indeed, the fact that the percentage of white students has dropped cannot be denied. Table 1, which follows, shows the percentage of white versus nonwhite students in the Dallas schools from the 1952-1953 school year (the year before the Brown ruling) to the 1968-1969 school year (two years before the first busing order became effective.) The data is taken from the Texas Education Agency, Annual Statistical Reports.

TABLE 1

White Versus Minority Percentages of

Total School Population by School Year

| School Year | Total Enrollment | Percent White | Percent Minority |
|---|---|---|---|
| 1952-1953 | 80,110 | 83.4 | 16.6 |
| 1954-1955 | 103,252 | 83.9 | 16.1 |
| 1955-1956 | 111,300 | 83.5 | 16.5 |
| 1956-1957 | 118,953 | 82.9 | 17.1 |
| 1957-1958 | 124,599 | 82.3 | 17.7 |
| 1958-1959 | 132,078 | 81.9 | 18.1 |
| 1959-1960 | 140,574 | 81.6 | 18.4 |
| 1960-1961 | 146,054 | 81.2 | 18.8 |
| 1961-1962 | 151,165 | 80.3 | 19.7 |
| 1962-1963 | 156,185 | 79.7 | 20.3 |
| 1963-1964 | 161,123 | 78.9 | 21.1 |
| 1964-1965 | 167,197 | 77.5 | 22.5 |
| 1965-1966 | 167,573 | 75.9 | 24.1 |
| 1966-1967 | 169,871 | 74.2 | 25.8 |
| 1967-1968 | 172,989 | 72.8 | 27.2 |
| 1968-1969 | 177,014 | 71.7 | 28.3 |

After the 1968-1969 school year the Texas Education Agency no longer listed enrollment by race. It should be noted, however, that even during a time in which there was no busing, and at the end of which

ninety-one percent of all blacks in Dallas schools still attended schools that were ninety percent nonwhite, the percentage of white students had dropped by better than twelve percent.

By the time of the 1976 court order, total enrollment in the school district had dropped to approximately 140,000 students. Of this number, approximately forty-four percent were white. For the 1982-1983 school year total enrollment had dropped to approximately 128,500 of which twenty-eight percent were white. As of September 26, 1983, total school population was 125,235 with 25.1 percent white students.[149]

Opponents of desegregation have been quick to point out the drop in percentage of white students from over eighty percent to just above twenty-five percent in the years since the Brown decision. These figures have often been used as proof that desegregation has caused white flight. A careful analysis of the figures given above does not necessarily agree with such an absolute assessment, however.

As already pointed out the white percentage had already dropped by better than twelve percent before desegregation was really implemented to any significant degree. It should be noted that at the same time that the drop in the percentage of white students enrolled was accelerating, a significant drop in the total school population was also occurring. Between the 1968-1969 school year and September, 1983 school enrollment in the Dallas Independent School District dropped by twenty-nine percent. A corresponding increase has been noted in the school populations of neighboring suburban districts.

It does not necessarily follow, however, that these students left Dallas for the suburbs because of desegregation. A number of factors

other than public education made the suburbs inviting. Among these were cheaper prices for land, more advantageous zoning and an imporved highway system. These factors along with the availability of mortgage funds and increased development of relatively inexpensive, track type single family homes made suburban life seem more enjoyable.

Even though such suburban housing did become more affordable, it did not reach the price range of lower income families. This included most minorities and helps explain why the exodus to the suburbs was primarily white.

For all of the reasons described in this chapter, implementation of desegregation orders has come slowly in Dallas. Implementation has been delayed at every opportunity and alternate issues like busing and white flight have been used to draw attention away from the need for implementation. In the final chapter, a summation of the state of desegregation in Dallas will be given and some conclusions drawn concerning the many attempts to implement the desegregation orders.

# CHAPTER IV

## SUMMARY AND CONCLUSIONS

The reaction to desegregation orders in Dallas that is described in the preceding chapter is not surprising in light of the history of race relations in the south. Nor was the Dallas reaction substantially different from that of other large southern cities. Desegregation of public schools was not a southern desire and it was not implemented eagerly.

Attempts to desegregate Dallas schools have been met by continuous delaying tactics. The attempts by the school system to delay desegregation have gained active support by public officials and by the federal court system. District judges Atwell and Davidson were obviously opposed to large scale desegregation of schools and their actions supported efforts to delay implementation.

Other public officials at all levels have aided the cause of delay. Presidents Nixon, Ford and Reagan have spoken out forcefully against busing as a tool for implementing desegregation. Many laws and constitutional amendments have been proposed in Congress that would have restricted school desegregation had they been passed. State governors in Texas and other states have opposed desegregation, as have state legislatures.

The primary actor in implementation of desegregation orders in Dallas, however,is, and has been, the local school board. It has been left up to the school board, and to the school administration that it hires to provide most of the plans for implementing desegregation orders that have been issued in Dallas. A majority of the people that have occupied the school board seats in Dallas since 1954 have been unenthusiastic when devising desegregation plans.

As noted in Chapter III, the school board took three years to create the first such plan and then did so only after the Fifth Circuit Court of Appeals gave them a thirty day deadline for completion of the task . When the school board finally did submit plans, they never gave more than they had to give. Willie and Greenblatt, in Community Politics and Educational chance described one Dallas school board in this manner: "The general rule seemed to be 'do all you can within the limits of the law' to avoid desegregation."[141]

This approach by the school board of giving in to more desegregation only when forced, has caused the implementation process to be one of small incremental steps. The board first gave away legal restrictions to black attendance in formerly all white schools. It next agreed to small amounts of forced busing and boundary changes and then to even larger amounts of forced busing. Finally it included remedial programs, magnet schools and other programs designed to increase desegregation or ease its problems.

Thus, fighting all the way, Dallas school boards have brought implementation of desegregation to the point where it stands today. The desegregation effort still includes busing to achieve integration.

However, as pointed out in Chapter III, forced busing affects a relatively small percentage of students and schools in Dallas. Nine schools are affected by forced busing in Subdistrict I, and eleven in Subdistrict III. There is no forced busing in Subdistrict II, although ten schools there are considered naturally desegregated.

Two programs are in effect in the Dallas schools to supplement the effect of this limited amount of forced busing. The first is called the Majority-to-Minority Transfer Program . Under this program, a student whose ethnic group in his assigned school exceeds the districtwide percentage at his grade level, may transfer to a school in which his ethnic group comprises less than the districtwide percentage. The school district provides or pays for transportation for students who volunteer for this program.[142]

Table II, given below, indicates participation in this program as of December 15, 1982.[143]

Table 2

Number of Students Participating in the Majority-to-Minority Transfer Program by Ethnicity and by Subdistrict

| Ethnicity | White | Black | Hispanic | Other |
|---|---|---|---|---|
| Subdistrict | | | | |
| I | 36 | 289 | 180 | 5 |
| II | 10 | 1,153 | 35 | 1 |
| III | 51 | 628 | 37 | 1 |
| TOTAL | 97 | 2,070 | 252 | 7 |

It can be seen from Table 2 that Black students make much greater use of the program than do other groups. Of the 2,426 participants listed on Table 2, eighty-five percent are black. Only four percent of total participation involves whites. Of the districts total student population, the Majority-to-Minority Transfer Program involved only about two percent of the students. The program has not met expectations of the courts and was one subject discussed at hearings held in June and July of 1983. The Office of Desegregation Monitoring acknowledges that the program's lack of appeal, especially to whites, has been a disappointment to school officials.[144]

The second program designed to reduce the need for forced busing is the magnet school concept. The school district has established high school magnet programs that include the Transportation Institute, the Business and Management Center, the High School for the Health Professions, the Science/Engineering and Technology School, the Human Services Center, the Public Services: Government and Law School, the Engineering and Computer Cluster, the School of International Studies, the Communications/Humanities Magnet, the Arts Magnet High School, the Skyline Career Development Center, the Multiple Careers Magnet Center and the Academically Talented and Gifted Program.[145]

As the names suggest, these magnet programs attempt to provide more concentrated and higher quality education in particular areas. It is hoped that the quality and course offerings of these schools will be so good that students will volunteer to attend them. The school district reserves a certain enrollment quota for each racial group at each magnet school to insure that the schools are integrated. Similar programs

called Vanguards and Academies are offered for upper elementary and junior high grades.

Table 3 compares the number and percentage of seats reserved for incoming ninth grade students at magnet schools by ethnicity to the number and percentage of seats that were actually filled.[146]

TABLE 3

COMPARISONS OF SEATS RESERVED VERSUS SEATS FILLED IN MAGNET SCHOOLS FOR THE 1982-1983 SCHOOL YEAR

| | Seats Reserved | | Seats Filled | |
|---|---|---|---|---|
| | Number | Percentage | Number | Percentage |
| White | 359 | 29.5 | 183 | 19.0 |
| Black | 642 | 52.8 | 620 | 64.2 |
| Hispanic | 193 | 15.8 | 155 | 16.1 |
| Other | 21 | 1.9 | 7 | 0.7 |
| Total | 1,215 | 100.0 | 965 | 100.0 |

Table 3 again reflects a program which has not drawn the desired participation. Once again this is particularly true for white students. Only 50.9 percent of the seats reserved for whites at magnet schools were filled. Black students, on the other hand, filled 96.5 percent of the seats reserved for them. Karen Rogers of the Office of Desegregation Monitoring indicated that this may be because the focus at the magnet schools may not be attractive to whites. The schools have tended to focus on lower skill level jobs such as auto mechanics at the transportation magnet and nursing or paramedics at the Health Services School.[147]

The district is currently trying to improve participation in its magnet programs by better advertising to the community, by allowing part-time attendance at the magnets and by direct recruiting at middle schools.

Despite busing, the Majority-to-Minority Transfer Program and use of magnet schools, the Dallas Independent School District remains a highly segregated school system. Table 4 lists the number of schools in each Dallas subdistrict by ethnic composition. A one ethnicity school contains ninety percent or greater of one ethnic group. A predominantly one ethnicity school contains at least seventy-five percent of one ethnic group. A predominately minority school exists where the number of white students does not exceed twenty-five percent.[148]

TABLE 4

NUMBER OF SCHOOLS BY ETHNIC COMPOSITION

| | One Ethnicity | Predominantly One Ethnicity | Predominantly Minority |
|---|---|---|---|
| Subdistrict I | 3 | 10 | 20 |
| Subdistrict II | 30 | 7 | 11 |
| Subdistrict III | 9 | 7 | 3 |
| Total | 42 | 24 | 34 |

This table indicates that after more than twenty-eight years of desegregation litigation, forty-two schools in Dallas still contain a concentration of more than ninety percent of a single ethnic group. Because of the total composition of the school district in 1983, however, it would now be impossible to devise a plan by which even a majority of schools could reflect the racial composition of the

Dallas/Fort Worth area. Table 5 details the distribution of students by ethnic group in the Dallas Independent School District as of September 26, 1983.[149]

TABLE 5

STUDENT POPULATION DISTRIBUTION

| Grade | Anglo | Black | Hispanic | Other | Total |
|---|---|---|---|---|---|
| K-3 | 9,661 | 19,121 | 11,610 | 918 | 41,320 |
| | (23.4%) | (46.3%) | (28.1%) | (2.3%) | |
| | | | | | 61 |
| 4-6 | 6.994 | 13,967 | 7,220 | 669 | 28,850 |
| | (24.2%) | (48.4%) | (25.0%) | (2.3%) | |
| 7-8 | 4,851 | 10,166 | 4,265 | 311 | 19,593 |
| | (24.8%) | (51.9%) | (21.8%) | (1.6%) | |
| 9-12 | 9,983 | 18,944 | 5.198 | 747 | 35,472 |
| | (28.1%) | (53.4%) | (16.3%) | (2.1%) | |
| Totals | 31,489 | 62,198 | 28,853 | 2,655 | 125,235 |
| | (25.1%) | (49.7%) | (23.1%) | (2.1%) | |

Table 5 points out that the white population in the Dallas schools will probably continue to drop. The percentage of the total school population made up by white elementary students is even less than that of white high school students. It should be noted, however, that this is also true of black students. That group which shows the greatest likelihood for an increased percentage of the total school population is Hispanics. While the Hispanic total percentage still lags beyond that of whites, the percentage of Hispanic elementary students is now only exceeded by blacks.

One answer to the situation depicted by Table 5 is to accept the impossibility of achieving levels of integration that reflect the surrounding area and to try to improve education in the district as it is now made up. The 1982 court order has several provisions that follow this point of view.

One portion of these provisions is called Programmatic Remedies. Their purpose was to help bridge the academic achievement gap between white students and minorities, though they are also helpful to white students who need them. These are Capable/Creative Leadership Development, Systemized Managerial Structure, Personnel (Recruitment and Selection of Competent Personnel), Systemized Instructional Curriculum/Program, Ethnic Literacy/Diversity, Reading/Language Development, Elementary and Secondary Education (Instructional Reform), New Assessment Criteria Which Diminish Race and Class Bias, Competency Based Model for Personnel Development Program and Community Participation.[150]

These ten programs are supposed to be implemented throughout the district and to be beneficial to all schools. Along with the magnet concept, programmatic remedies are designed to improve the quality of Dallas schools to the point that they will provide quality education for existing students as well as enticing white students to return.

The situation in the Dallas school system in November of 1983 seems to be one of acceptance that desegregation cannot be rolled back but neither can it progress much further. The lack of an additional call for busing in the 1982 order and the emphasis on improvement of the

existing situation emphasize acceptance of this situation, at least by the courts.

An examination of Table 4 indicates that there is still room for some additional busing or boundary changes to achieve greater desegregation but the figures reflected in Table 5 make the possibility of further extensive reform seem unlikely.

The only means of truly implementing the desegregation orders, given the present demographics, would be by crossing district lines. There are ample, primarily white, suburban school districts surrounding the Dallas Independent School District to provide enough students to ensure more complete desegregation that Dallas can provide alone. If the original reasoning of Brown can still be believed, then such inter-district busing would be advantageous.

The Supreme Court has ruled in Milliken v. Bradley that such busing across district lines is not required by law.[151] The city of Detroit wanted to bus students to and from its surrounding suburbs. The court ruled that, since the suburbs had not been a party to official segregation, they could not be held responsible for, or made to assist in curing, the ills of the inner city.[152]

Dallas would face this same argument. In fact, the plaintiffs tried to include several suburban school districts in the Dallas litigation in the 1970's. All such attempts were denied by the courts.

With this possibility denied, the only recourse left to Dallas is to improve the system as it is now populated. Therefore, twenty-eight years of fighting with the school district for desegregated schools has

brought only partial compliance and the possibility of further compliance seems unlikely.

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[112]Bell v. Rippy, 133 F. Supp. 811 (1955).

[113]Borders v. Rippy, 247 F. 2d 268 (1957).

[114]Rippy v. Borders, 250 F. 2d 690 (1957).

[115]Bosun v. Rippy, 285 F. 2d 43 (1960).

[116]Borders v. Rippy, 247 F. 2d 268 (1957).

[117]Britton v. Folson, 348 F. 2d 158 (1965).

[118]Tasby v. Estes, 517 F. 2d 92 (1975).

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[120]Dallas Morning News, 10 February 1982, p. 16A.

[121]Ibid., 23 February 1983, p. 15A.

[122]Ibid., 16 March 1983, p. 13A.

[123]Rowland Stiteler, "The School Board: Dallas Own Taxpayer--Financed Circus," D, September, 1980, p. 149.

[124]Dallas Morning News, 18 May 1954, Part 1, p. 3.

[125]Ibid., 1 June 1955, Part 1, p. 1.

[126]Fort Worth Star Telegram, 1 June 1955, p. 1A.

[127]Dallas Morning News, 6 June 1955, Part 3, p. 2.

[128]Borders v. Rippy, 247 F. 2d 268 (1957).

[129]League or Women Voters of Dallas, "Implementing School Desegregation," April, 1971, p. 5.

[130]"Ninth-Grade TABS Scores," D, August, 1983, p. 74.

[131]Interview with Karen Rogers, Office of Desegregation Monitoring, DISD, Dallas, Texas, 9 November 1983

[132]Susan Mecke, "The Teacher: Blackboard Jungle, Dallas Style," D, September, 1980, p. 141.

[133]Greenblatt and Willie, op. cit., p. 163.

[134]Donald E. Hood, "Audit Report of the U.S. Federal District Court-Ordered Desegregation of the Dallas Independent School District, 1982-1983," June 15, 1983, p. 27.

[135]Dallas Morning News, 2 February 1982, p. 16A.

[136]Ibid, 11 September 1975, p. 14A.

[137]Ibid., 23 March 1982, p. 8A.

[138]Ibid., 3 February 1982, p. 16A.

[139]Ibid., 2 February 1982, p. 16A.

[140]"Student Population Distribution," Unpublished Computer Generated Report from the Dallas Independent School District, 28 September 1983.

[141]Greenblatt and Willie, op. cit., p. 166.

[142]"Dallas Independent School District Desegregation Plan," 13 October 1981, p. 3.

[143]Hood, op. cit., p. 41.

[144]"Dallas Independent School District Desegregation Plan," 13 October 1981, pp. 14-20.

[145]Hood, op. cit., pp. 52-53.

[146]Interview with Karen Rogers, Office of Desegregation Monitoring, DISD, Dallas, Texas, 9 November 1983.

[147]Hood, op. cit., pp. 25-27.

[148]"Student Population Distribution," Unpublished Computer Generated Report from the Dallas Independent School District, 28 September 1983.

[149]"Dallas Independent School District Desegregation Plan," 13 October 1981, pp. 9-10.

[150]Milliken v. Bradley, 418 U.S. 717 (1974).

[151]William L. Taylor, "The Supreme Court and Recent School Desegregation Cases: The Role of Social Science in a Period of Judicial Retrenchment," Law and Contemporary Problems 42 (Autumn, 1978): p. 39.

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