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BY G. HARTLING, Deputy

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

KARI CARLIN, et al.,	
Plaintiffs,	Case No. 303800
v.	MEMORANDUM DECISION
BOARD OF EDUCATION OF THE SAN DIEGO UNIFIED SCHOOL DISTRICT,	
Defendant.	

Two questions are before the court: (1) does the experience of the past school year justify the conclusion that meaningful progress is being made to alleviate segregation, and (2) does the plan for the future promise to achieve meaningful progress toward eliminating segregation.

There have been successes; there have been failures, but the court agrees with the Integration Task Force that, in general, the program is making progress. "We have seen great effort on the part of individual principals, teachers, and administrators" the Task Force

reports. "We do, though, have some concerns . . . We believe that there must be greater effort on the part of the schools, the parents, and other community resources in an effort to achieve school integration and quality education." Progress is slow but steady[1] and with little or no white flight. In this memorandum of decision, the court will outline a plan to hasten progress but not at the expense of losing children of middle class families from the school district. "A school desegregation plan which leads to a drastic drop in white enrollment will be ineffective since there may be few white students remaining in the district's integrated schools."[2]

Doctor Farley's study of white flight in Los Angeles reveals the district lost 29,400 white students (15.1% overall) after court ordered busing. He estimates between 13,800 (7.1%) and 10,500 (5.2%) of this loss was due to the court order. Farley arrives at these figures through various analyses. One such analysis compares grades 4 to 8, the ones subject to mandatory assignment, with those not so involved (grades 1 to 3 and 9 to 12). The loss rates in grades 4 to 8 averaged 17% of total white enrollment compared to 9.7% in the other seven grades. Another study showed the loss of whites in the schools actually involved in mandatory reassignment was 30.5%, whereas the loss for schools not involved in mandatory programs was only 8.2%. "This quite clearly suggests," Farley states, "that school integration led to substantial drops in white enrollment."

We have witnessed similar phenomena throughout the state and nation. Dr. James Coleman, sometimes referred to as the father of desegregation, now asserts that extensive white loss initiates a

vicious circle. It creates a school system that has a higher proportion of minority students and this in turn increases the rate of white loss from the district.[3] Farley points out that "[i]n 1976 only three of the nation's largest cities, San Diego, Indianapolis and Milwaukee, had majority white enrollment and by 1978 . . . only San Diego's public schools enrolled more whites than minority students."[4]

White flight statistics are only relevant insofar as they guide us in choosing the best techniques for desegregation--those that are truly "reasonable and feasible." In Crawford, our Supreme Court stated:

> "A court may reject a particular approach if it finds that its implementation is likely to result in a 'one race' or 'all minority' school district and consequently in less ultimate opportunities for the benefits of a desegregated education." (p. 309)

To preserve this nation's only racially balanced school system in a major city, the court rejects mandatory assignments.

In the judgment of the court, the flight syndrome is not caused primarily by racial prejudice. The predominant cause is the fear of middle class parents that their children will be physically or psychologically harmed by children from a lower socio-economic strata and that the quality of education will deteriorate to accommodate these students. For example, Dr. Christine Rossell wrote, "those most likely to withdraw their children from the public schools because of school desegregation tend to be of higher income and educational level than those who do not."[5] Yet studies have shown that highly educated people have fewer racial prejudices than those

who have received less education. The focus of a voluntary desegregation program must be to dispel myths, provide "catch-up" courses for those who have been educationally handicapped and eliminate anti-social behavior by whomsoever it is displayed. Then no group will have reason to flee. We have this opportunity in San Diego. It is now lost to all other major cities. We can keep the district racially balanced and eliminate racial isolation if the Board of Education, public officials, civic leaders and citizens will cooperate to accomplish these goals and inspire support for this program.

First: The district should stop the Madison Avenue campaign "It's working." This insults the intelligence of many, infuriates others and inspires complacency in the rest. The time, effort and money should be spent on the doing, not on creating images. "Let's make it work" or "Let's keep it working" would be better slogans, if slogans are necessary.

Second: Under the present and proposed plan, VEEP is the primary tool for providing secondary students with a desegregated education; the magnet school is best used to alleviate isolation among elementary grade pupils. With certain exceptions (e.g. Wright Brothers), "the magnet program is not a viable tool for the integration of isolated secondary schools."[6] In the 1978-79 school year, the district projected "a very modest goal of 490 majority students" for Center City secondary magnets. "The actual number enrolling was nearly 160 or about 33% of the goal, with less than 100 of these being non-resident majority students."[7] For the coming year, the Gompers Math/Science program holds promise. We should adopt a "wait and see"

approach to O'Farrell. But for the other minority secondary schools, San Diego, Lincoln, Morse and Memorial, the magnets have failed to attract adequate white enrollment. From the point of view of integration, they are not worth the money expended for their operation. All four are expected to attract only 225 non-resident white students. If they enroll, they will mix with 115 minority students from the four schools. Since the four schools have a combined resident population of 5,823, the magnets are tiny pockets of students that have no effect on the schools. The programs become objects of ridicule and are resented by resident students not attending.

The VEEP program must be augmented by a greatly expanded Secondary Instructional Exchange Program. The 1979-80 school year plan is for only 200 students. The district should strive to attract 800 students from both junior and senior high schools. The present plan calls for each student to attend exchange classes for a portion of each school day throughout the school year. Some expanded classes may, at the outset, bring the students together for a portion of each day or three days a week throughout the year or for a semester.

Third: By creating additional magnets at the elementary level, the district is fulfilling its promise to "build on its successes." Regrettably, a magnet program originally planned for Emerson must be delayed one year. The school district and UCSD have advised the court that a fundamental difference in teaching philosophy prevents implementation this year. However, the school district will implement an expanded and improved bilingual program at Emerson and the Direct Instructional Model Program (DISTAR) will continue to operate during

the 1979-80 school year. Emerson will have its magnet, a Fundamental School with a bilingual component, next year.

The district and UCSD will continue to explore areas where cooperation can result in enriched educational experiences for minority students. The district is directed to advise the court of progress being made along these lines.

Fourth: In its memorandum decision of June 12, 1978, the court stated that "transportation costs to magnet schools are much greater than those for paired or clustered programs." At this time, we must consider costs and make every effort to conserve fuel consumption. Various elementary programs which have grouped children from two or more schools have met with considerable success. The district has repeatedly represented that "the long range goal of such exchanges is the full time enrollment of students in paired or clustered schools which will improve the ethnic balance in all schools involved." (Evaluation, Ex K p. C-3. See also pp. C-5, C-6 and Revised Plan, Ex J p. 64). "The typical nine week social studies or science unit offers an opportunity for one or more classes in minority and majority schools to exchange students on a daily, three days a week, or other basis." (Evaluation, Ex K p. C-9). The district is directed to implement such programs. If it is feasible to implement some programs for a semester or full year, that should be done without delay. Where nine week exchanges are implemented, plans should be made for gradual enlargement of the programs. One such program should be started this autumn and at least two more next February. Each school involved in an exchange should have a minority or majority population in excess

of 69%. If feasible, minority isolated schools should be chosen.

An essential element in the preparation of such programs is parent involvement.[8] The court directs the district to place this task under the supervision of Dr. Jimmie Craig. Because of their successful exchange programs last year, consultation on all aspects should be had with Roger Challberg, Jerome Weintraub, Stuart Karzen and Gayle Kloppenburg, respectively, principals of Kennedy, Curie, Boone and Jones. Ideally, the programs should involve the entire schools. If this does not appear feasible at the outset, then grades 1, 2 and 3 or 4, 5 and 6 may be chosen. Variants from the typical pairing and clustering may be useful at the outset. For example, home teachers may accompany the class for the initial period if that is necessary to build confidence and allay parental fears. The long term plan will be to increase these exchanges and phase out the Learning Centers. By long term, the court envisages that all exchanges will replace Learning Centers by the 1983-84 academic year.

Fifth: All optional zones will remain as they have been in the past. They do not create, foster or perpetuate racial segregation.

On March 10, 1977[9] this court made a finding of fact that:

> "It is true that defendant has designated areas in which students may elect to attend either of two schools. It is not true that the election of these options create, foster and perpetuate racial segregation."

The finding was made because plaintiffs had failed to present any evidence linking optional zones with segregation. On July 27, 1978

this court made the following finding of fact:

> "Integrated educational experiences for isolated minority children are more likely to occur if: . . .
> 7. All optional zones are eliminated by September, 1979."

The finding was based on no evidence. It was made because the court believed that white parents, given a choice, would opt for a "white school" instead of a "minority school" and this would further segregation. During the recent hearings, the court, for the first time, examined the facts pertaining to this issue and finds them to be as follows:

1. Gompers/Memorial. Both schools are minority. There are 48 students who reside in the optional zone, 3 are white, 45 minority. 23 students now choose Memorial, 25 Gompers. If all are required to attend Memorial, the school will remain 96% minority, 4% white. If all must attend Gompers, the ratio changes from 88% minority to 85% minority.

2. Gompers/O'Farrell. Both schools are minority. There are 35 students who reside in the optional zone, 1 is white, 34 minority. 32 students now opt for O'Farrell, 3 for Gompers. Whatever is done, the Gompers and O'Farrell ratios remain the same, 88% minority at Gompers, 85% minority at O'Farrell.

3. Gompers/Mann. Mann is a balanced school, 64% white, 36% minority. Gompers is 12% white, 88% minority. Of the 121 students in the optional zone, 49 are white, 72 minority. All 121 have chosen to go to Mann. If all are required to attend Gompers, Gompers will change from 88% to 85% minority and 72

desegregated minorities will be resegregated.

4. Lincoln/Crawford-Morse. In the Lincoln/Crawford option there are 107 students, 56 white, 51 minority. 105 opt for Crawford, 2 for Lincoln. In the Lincoln/Morse option there are 240 students (8 white, 232 minority). 184 opt for Morse, 56 for Lincoln. If all students in both optional zones are assigned to Lincoln, the ratio at Lincoln changes from 99% minority to 95% minority.

5. Bell/O'Farrell. There are 80 students in the optional zone, 2 whites, 78 minority. 72 opt for Bell, which is 31.5% white, 68.5% minority, and 8 choose O'Farrell, 14.5% white, 85.5% minority. If all students are sent to Bell, the white population there will increase 1 1/2% from 31.5% to 33% and if all are assigned to O'Farrell, the white population will decrease from 14.5% to 13.5% and 70 minority students will be more isolated than before.

6. Roosevelt/Wilson. There are 237 students in the optional zone, 169 white, 68 minority. 159 choose Wilson, 78 Roosevelt. Roosevelt has 61% white, Wilson 54% white. Reassignment of all students to either school will increase the white percentage one point (62% and 55% respectively).

It is apparent that elimination of the optional zones in these schools would not result in providing students with an integrated educational experience. It would only upset and inconvenience parents and students who have established attendance patterns for various reasons. Abolition of elementary optional zones would not change the demographics of

any school more than 2%.

7. San Diego/Point Loma-Hoover. In the San Diego/Point Loma option there are 79 students,[10] 62 white, 17 minority. 60 choose Point Loma and 19 San Diego.[11] In the San Diego/Hoover zone there are 182 students, 133 white, 49 minority. 149 choose Hoover, 33 San Diego. If all students in each zone are required to attend San Diego High, the percentage of minorities will be reduced from 80% to 73%.

The evidence suggested there may be a "secret optional zone" known as Special Attendance Permits (SAP for short). Of all the SAPs issued last year to white students (255), 109 were issued to white students who were in the San Diego High area. The nearest runners up were Mission Bay with 49 and Morse with 27. The others were 19, 16, 10, 9, 8 and 8. Moreover, of the 109 SAPs issued at San Diego, 68 were transfers to Point Loma and 21 to Hoover. To investigate this phenomenon, the court asked for and received the applications for these 109 Special Attendance Permits. 28 permits were requested and granted to avoid actual violence (7), threat of violence (9), or fea of violence (12) at San Diego High. Other applications suggested th fear of violence motivated the request for transfer, but the applica tions are not clearly identifiable as such. (See Appendix "B"). Th violence ranged from gang beatings to "bullying."

At this point the court asked for and received a tabulation of reported incidents of violence at each school in the district. This report reveals that the district average incidence of violence is 0.62% per enrolled pupil. The largest incidence per pupil is at

San Diego High with 2.5%, the next closest is 1.51%. The incidence of violence at Hoover is slightly more than the average at 0.76% and it is about half the average at Point Loma, 0.37%.[12]

Under these circumstances, there is more to be lost than gained by abolishing the San Diego/Hoover-Point Loma optional zones. However, SAPs should be closely scrutinized and they should only be permitted where there are compelling reasons to do so.

Sixth: In its April 11, 1979 report, the Task Force reported:

> "It has been noted that some schools have a higher incidence of violence than others with similar VEEP programs and ethnic populations [sic] ratios. A comparative analysis of this phenomenon should be conducted by the school district. It is possible that some on-site administrators are managing the programs more effectively than others. A uniform standard of disciplinary policies and procedures is necessary."

The statistics supplied by the school district reveal this great variation in the incidence of violence. For example, Pacific Beach Junior High School and Muirlands Junior High School both feed into La Jolla High. Both schools have approximately the same number of students (1138 and 1247). Both have approximately the same ratio of majority and minority students (73.8% and 76.9%). Yet there were only three reported violent acts at Pacific Beach while there were 12 at Muirlands. Only one of the three at Pacific Beach was between persons of different races while all 12 at Muirlands were interracial.

The court orders the district to study and analyze this phenomenon throughout the district and make concrete recommendations to the court for controlling the situation and bringing swift

punishment to undisciplined persons who cannot otherwise be dissuaded from their anti-social behavior.

Seventh: The Race/Human Relations program lacks uniformity. Only those truly dedicated to the cause should conduct such programs. Local autonomy in such matters is to be preferred if the school is doing something worthwhile. If, however, the local program consists of "going through the motions," supervisors shall step in and take over the program. The best results come with small groups under the leadership of able and enthusiastic persons. The youngsters should be encouraged to articulate their feelings in one another's presence. Motion pictures and lectures have limited value. The court orders the district to report concerning the specific steps it takes to monitor these programs and the remedial action that it takes.

Eighth: The impact of the VEEP program on desegregation is dramatically shown on plaintiff's exhibits 22 and 11. Exhibit 22 shows that most of the district junior high schools have a 20% to 50% minority population, but exhibit 11 reveals that the senior high schools in much of this same geographical area have only a 0 - 20% minority population. There were 2002 VEEP participants in junior high schools but only half that number, 1057, in senior high schools during the 1978-79 school year. The ratios were similar in the 1977-78 school year.

The district is ordered to study this phenomenon, report to the court its causes and suggest what can be done to reverse the trend.

Ninth: The court wishes to be kept informed of the development

and implementation of the Lincoln "Pride in Excellence" program.

Tenth: The district is ordered to pay to United Way, Trustee for Integration Task Force, on or before August 15 the sum of $75,000. This sum will be used to defray expenses of the Integration Task Force during the 1979-80 school year. The funds will enable the court to engage the services of necessary office personnel, qualified monitors and experts to oversee the desegregation program. Citizen members of the Task Force will continue to donate their services without compensation.

Finally, the court wishes to underscore the Task Force's observation "that dedication and commitment has to flow from the top down. In this case, that means from the School Board to the Superintendent to the central administrators to the site administrators to the teachers and aides and classified staff. Prejudice is exceedingly difficult to overcome even with good will and the best of intentions." In his recent book, Must We Bus, Gary Orfield wrote:

> "Only the leadership of elected officials and administrators can generate a mutually supportive pattern of enforcement actions to create stable desegregation and to build genuine integration. Without this, no lasting solution seems imaginable. The courts can define the issues and stimulate analysis to show that change is feasible and necessary, but left exclusively to them, desegregation will be spotty and often temporary. Only public commitment can mobilize the resources to do the job. If that commitment develops, there are many approaches to integration--interrelated, moving with varying speeds and decisiveness, but moving in a common direction."

I call upon the district and the community to cooperate before it is too late.

Dated: JUL 27 1979

Judge of the Superior Court

APPENDIX "A"

"I would have liked to have seen some printed information concerning what the children would be doing during the day, what was done in the special classes, etc. I found it difficult to find out from my son (he is 5) what he did during the day there. I would also have appreciated a short note from the teacher at the end of the session with any comments on how my son interacted with the Kennedy students, how he did in class, etc. He seemed to enjoy his time there very much."

"I wish more information would have come home before session on what would be covered in class and what exactly was reason for class at Kennedy."

"Please call ahead to the other school when the bus is fifteen or more minutes late in leaving."

APPENDIX "B"

EXCERPTS FROM PHYSICIANS' STATEMENTS IN SUPPORT OF SAPS

"This is to verify that the above patient has had a disturbing personality change related to anxiety about school. She would benefit from a change in school assignment."

"I feel it would be medically advisable that she attend Point Loma High School instead of San Diego High, both for physical and psychological reasons."

"This patient has been under our care for respiratory allergies since _____. It is essential that he attend Point Loma High rather than San Diego High School for health reasons."

FOOTNOTES

[1] Dr. Christine Rossell, plaintiff's expert, refers to data that "indicate that racial imbalance has declined by a small amount almost every year since 1967." Ex 32.

[2] Report of Professor Reynolds Farley, court appointed monitor to Los Angeles Superior Court Judge Paul Egly (Ex M App. B).

[3] Exhibit W, affidavit of James S. Coleman, July 9, 1979.

[4] Op. Cit Note 2.

[5] "White Flight: Pros and Cons", Rossell, Social Policy Nov./Dec. 1978 (see Rebuttal to Declaration of Christine Rossell and July 18 affidavit of Christine Rossell).

[6] Integration Task Force report, June 7, 1979.

[7] Ibid.

[8] See Appendix "A" for statements of some parents whose children participated in the Kennedy-Curie program.

[9] The order was dated July 27, 1978, entered nunc pro tunc as of March 10, 1977.

[10] Amicus Curiae dispute this figure. They claim there are either 69 or 47.

[11] The court did not receive the statistics, but it is safe to assume they divide along racial lines.

[12] The court obtained these percentages by dividing the number of reported incidents at each school into the total school population.