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1. The Recent Events in Omaha

The current school desegregation crisis in Omaha makes a review of the issues in school desegregation especially relevant. Desegregation first referred to the dismantling of the southern dual school systems. The general principle is that the racial identity of schools should be removed. There should not be 'black' schools or 'white' schools, just schools. Since 1964, the courts have acted not only where the segregation was 'de jure' (by law) but in cases of 'de facto' segregation (where segregation existed without clear action on the part of the state). The argument has been that in the north as well as the south, school boards and other local agencies have acted to maintain separate schools.

The Department of Justice has found racially discriminatory practices in the Omaha School system. The allegations are:

"...while the Board of Education professes to adhere to a neighborhood school policy, it has deviated from this policy in certain instances resulting in racial segregation."

"We have concluded that certain school board policies do deviate from the neighborhood school concept by permitting white students in the predominantly black schools to attend schools elsewhere in the city. At the same time, these policies have served to contain black students within predominantly black schools."

At the Junior high school level the Justice Department noted "...that the school district discontinued Technical Junior High School at the start of the 1972-1973 school year...has perpetuated segregation for many black students at the Junior high level. In addition, the Martin Luther King Middle School, which will supposedly absorb many students who would have attended Technical Junior High School in the past, will continue to perpetuate segregation for black students in the area..."

At the elementary level, "...Franklin, Clifton Hill and Saratoga Elementary Schools owe their racial character, in part, to official board policies and practices which have permitted white students in the vicinity of these schools to attend elementary schools elsewhere in the city. These policies and practices include the utilization and placement of portables, and granting of special transfers and the manipulation of grade structures..."

The Department of Justice concluded by stating that: "It is the opinion of the Assistant Attorney General that these practices by the Omaha Board of Education fail to conform
the constitutional duty of school officials to take affirmative school desegregation ruling involving the procedures used to concept of 'de jure' segregation.

Vanous legal to the federal district court requesting a court order granting Justice Department found that the state imposed school segregation. The \textit{Hoover v. Board of Education of the City of Tulsa, 348 F. 2d. 398 (10th Cir. 1965)} held that themere existence of a freedom-of-choice plan was unconstitutional if such plan results in a high degree of segregation by virtue of.

The Board has argued that they have no obligation to correct a 'de facto' system inherited from their predecessors. This contention was rejected in U.S. v. School District of Cook County, 404 F. 2d. 72 (7th Cir. 1969).

Other decisions have held that the use of a neighborhood school plan, even without racially discriminatory motives, is unconstitutional if such plan results in a high degree of segregation.

One of the issues in 	extit{Brenner v. School Board of the City of Norfolk, Virginia}, was the gerrymandering of high school attendance zones, [397 F. 2d. 37 (4th Cir. 1969)].

In U.S. v. Board of Education, Independent School District No. 1, 1429 F. 2d. 1753 (10th Cir. 1967) the Court found that residential segregation in Tulsa was partly the result of the use of restrictive covenants prior to 1954. The imposition of a neighborhood school policy upon this residential pattern was one of the grounds on which the school system was found to violate the 14th Amendment. The Court dismissed the relevance of school officials' intent in designing the neighborhoods.

Before the "good faith" of the school administrators becomes constitutionally relevant, it must first be shown that the neighborhood plan has evolved from racially neutral demographic and fiscal considerations.

Relying on Breuer, the Court held that the attendance zones were discriminatory from their very inception. 

Brenner and Tulsa go far in broadening the 'de facto' concept, and, in effect, make it meaningless. First, they hold that the discrimination involved need not come from the school board and, second, even private discrimination, if it is relied upon by a school board becomes 'de jure' in the sense that it falls within the 14th Amendment.

Davis v. City of Pontiac, [309 F. Supp. 734 (S.D. Mich. 1970), affirmed 448 F. 2d. 572 (6th Cir. 1971), cert. den. 404 U. S. 912 (1971) is similar to District 151, in its approach to the question of 'de facto' segregation. The district court found that attendance zones and school construction were used in conjunction with existing residential segregation thus perpetuating it elsewhere. As a result, the school board was practicing 'de jure' segregation.

Sins of omission can be as serious as sins of commission. While the Board of Education has contributed and played a major role in the development and growth of a segregated situation, the Board is guilty of 'de jure' segregation. The fact that such came slowly and surreptitiously rather than by legislative pronouncement makes the sin deeper.

In 	extit{Springer v. Pasadena City Board of Education, [311 F. Supp. 501 (1970)] the Court did not specifically discuss the constitutional violations of desegregation as either 'de jure' or 'de facto'. In fact, the conclusions of law blur this distinction. The Court merely concludes that Brown I held that separation is inherently unequal; separation deprives minority students of their constitutional rights. The use of the neighborhood school concept and the manner in which such zones were meant by which the school board perpetuated violations of the 14th Amendment. The School Board recently ruled in the Denver, Colorado school district, which is an area whose central issue is the extent of a court's power to order elimination of so-called 'de facto' segregation.
The opening of the Martin Luther King and education, there is, as Gunnar
students are in schools education in Negro
asked if integration in the detrimental
housing segregation; the need for
The Court's decision on the
out of Omaha's school racial imbalance
true that two types of violence are involved
Education of Negroes and whites who are put together for the first time. It could also be argued that the American public school system had done violence every day to the educational, moral, and intellectual attainment of blacks, the legitimacy of the public schools in their speaking to the concerns, needs and learning difficulties of blacks, the Meeting these evaluation of Title I and more effective school programs, the Coleman data, and many other sources suggest that compensatory education within the standards. Out of the third issue, it is probably true that Omaha education faces a crisis. Possible community unrest and student rebellion form part of this crisis. The crisis in public education is the result of a number of complex causes, and desegregation can aggravate an already difficult situation. A variety of case studies (see, for example, Crain, the Politics of School Desegregation) showed that strong moral leadership at the local level, in most circumstances, would allow processes to work in the absence of major racial disruption of the school system.

"One vital element in a smooth transition from segregation to desegregation has been the determination of the school board and administration to carry through the desegregation plan and to do so firmly and unswervingly. Another has been the support of the news media, local officials, and civic leaders. A third has been the steps taken to assure that responsibility for desegregation does not fall disproportionately on one part of the community, but that all share it equally. A fourth has materialized by closely involving parents as active participants in desegregation, by keeping them thoroughly informed by active alternative procedures their views and suggestions. A fifth has been the development of procedures to assure firm but fair and impartial discipline of all students, and their full participation in school activities. A sixth has been the efforts made to improve the quality of education being given to Negro children. In order to clear up two types of violence involved in the crisis, there is the violence stimulated by the social change involving the attitudes of Negroes and whites who are put together for the first time. It could also be argued that the American public school system has done violence every day to the educational, moral, and intellectual attainment of blacks, the legitimacy of the public schools in their speaking to the concerns, needs and learning difficulties of blacks, the Meeting these evaluation of Title I and more effective school programs, the Coleman data, and many other sources suggest that compensatory education within the standards. Out of the third issue, it is probably true that Omaha education faces a crisis. Possible community unrest and student rebellion form part of this crisis. The crisis in public education is the result of a number of complex causes, and desegregation can aggravate an already difficult situation. A variety of case studies (see, for example, Crain, the Politics of School Desegregation) showed that strong moral leadership at the local level, in most circumstances, would allow processes to work in the absence of major racial disruption of the school system.

V. Techniques for Desegregation

The lack of quantitative methods for desegregating schools has been an important cause to continuing confusion. The courts cannot prescribe plans that will be acceptable to all communities, and the plans are often confused by the technical problems. Undoubtedly, clear quantitative methods can be of great assistance to school districts, the Department of Justice, the plaintiffs and the Office of Education.

The writer developed computer techniques that were used in the field under working conditions. The programs devised have been field tested and several a realistic desegregating sofeware has also been developed for Orange County, Florida. In these schools were racially balanced without increased cost of transport. The method allowed the desegregation issue to come under scientific examina.

The basic program works like a chain reaction. Starting at each school simultaneously, the machine had information on the street network and students. When two schools could enroll the same number of students, the machine would be contracted to the nearest, and so on until the system was balanced. A number of different plans were developed showing the cost, space utilization, and racial balance of each school. In conclusion, to close the words of the Supreme Court in the Brown case, "The desegregation techniques we have found to be most effective both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even services in the armed forces. It is the very foundation of good citizenship. Today it is a principle instrument in awakening the child to self-consciousness, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life, if he is denied the opportunity of an education, such an opportunity where the state has undertaken to provide it, is a right which must be made available to all on equal terms.

We conclude then to the question presented: Does segregation of children in public schools violate the Fourteenth Amendment? We hold that it does.

To separate them (Negro children) from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unhealthy to be.

We conclude that the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and others similarly situated for whom the actions have been brought are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment. 24


The following paper was delivered at an E.O.D. Committee meeting of the Urban League of Nebraska, August 3, 1973.

The State and Local Fiscal Assistance Act of 1972, more commonly known as General Revenue Sharing (GRS), provides the means to automatically distribute much-needed funds to states and local governments. This represented a simple, responsive philosophy that the means to distribute funds to local governments is more efficient than the methods used during the 1960s. An important provision of the law allows the State legislature to change the weights given to each of the elements in the formula for allocating funds within the state. This can be done once during the first five-year period of revenue sharing.

**Introduction**

The State and Local Fiscal Assistance Act of 1972, more commonly known as General Revenue Sharing (GRS), provides the means to automatically distribute much-needed funds to states and local governments. This represented a simple, responsive philosophy that the means to distribute funds to local governments is more efficient than the methods used during the 1960s. An important provision of the law allows the State legislature to change the weights given to each of the elements in the formula for allocating funds within the state. This can be done once during the first five-year period of revenue sharing.

**Entitlement Funds for Nebraska**

The state and local governmental units in Nebraska received their first GRS checks in December of 1972. As of June 30, 1973, a total of $56,964,734 was distributed to Nebraska governmental units. This represented less than one percent of the 8.3 billion dollars distributed to all state and local governments for the first three entitlement periods, ending June 30, 1973.

One-third of the allocation to each state, by law, remains with the state government, and consequently, the state government of Nebraska received a total of $19,871,418 through June 30, 1973. The remaining two-thirds ($36,024,324) was divided among local governments, yet the Douglas County area has jurisdiction over 20% of the State's population. This discrepancy suggests the importance of the other two elements in the distribution formula (tax effort and relative per capita income). An important provision of the GRS law allows the State legislature to change the weights given to each of the elements in the formula for allocating funds within the state. This can be done once during the first five-year period of revenue sharing.

**Priority Expenditures**

Local governments have greater flexibility in the use of GRS funds than with categorical or block grant funding. However, GRS funds must be spent on a specified list of high-priority items. These include ordinary and necessary maintenance and operating expenses for public safety, environmental protection, public transportation, health, recreation, social services for the aged, and libraries, and financial administration as well as for ordinary and necessary capital expenditures. Local governments are allowed to determine how much of the funds are to be spent on any particular high priority item.

The funds going directly to the State are not restricted to the categories listed for local governments. However, there is a limitation which applies to the states, as state governments are restricted to maintain the same level of aid to local governments as they had during the fiscal year 1972. Under this “maintenance of effort” provision, if a state reduces its aid to localities below the 1972 level, the Treasury Department will reduce the state's share of revenue sharing funds by the same amount.

**Table I**

<table>
<thead>
<tr>
<th>Category</th>
<th>Nebraska State Government</th>
<th>City of Omaha</th>
<th>Douglas County Government</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Ordinary and necessary maintenance and operating expenses for:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Public Safety (including law-enforcement, fire protection, and building code enforcement)</td>
<td>$6,100,875</td>
<td>$2,091,951</td>
<td>250,000</td>
</tr>
<tr>
<td>2. Environmental Protection (including sewage disposal, sanitation, and pollution abatement)</td>
<td>2,975,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Public Transportation (including transit systems and streets and roads)</td>
<td></td>
<td>50,000</td>
<td></td>
</tr>
<tr>
<td>4. Health</td>
<td></td>
<td>1,068,000</td>
<td></td>
</tr>
<tr>
<td>5. Recreation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Libraries</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. Social Services for the Poor and Aged</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Financial Administration</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>2,150,000</td>
</tr>
</tbody>
</table>

**C. Allocation of funds received by Nebraska State Government**

<table>
<thead>
<tr>
<th>Education</th>
<th>Not allocated, committed or proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>19,871,418</td>
<td></td>
</tr>
<tr>
<td>245,378</td>
<td></td>
</tr>
</tbody>
</table>

$10,871,418 $6,265,826 $2,999,378

1Includes $1,000,000 reserved for library site acquisition and demolition.

2Includes $2,000,000 allocated to liquidate mortgage on data processing equipment.

3This category is not an option available to local governments. Source: Information provided by state and local governmental officials.
Allocated, Committed and Proposed Use of GRS Funds

Table I reports the use of general revenue sharing funds by category for the State Government, Douglas County, and the City of Omaha. All funds received by the State Government ($19,871,418) were allocated to education. The City of Omaha has allocated 47 percent of the funds to public transportation and another 33 percent to environmental protection activities. Douglas County has allocated 77 percent of its funds to capital expenditures. During the first three entitlement periods there was a noticeable lack of funds allocated to social services for the poor and aged.

Community Input

The “Plan” for the use of revenue sharing funds is where a community can provide input into the allocation process. Under the law, each state and locality which expects to receive the funds must submit a report to the Secretary of the Treasury which spells out the amounts and purposes for which the funds will be used. The plan must be submitted for each entitlement period. At the end of each entitlement period, the governmental unit receiving funds must submit a report to the Secretary of the Treasury detailing actual use of the funds. Both the report showing the planned use of GRS funds and that showing actual GRS fund use must be published in a newspaper of general circulation within the governmental unit.

Through the use of special public hearings and testimony in city council and county board meetings, the community can be brought into the process of establishing needs and priorities in the use of GRS funds.

Summary

At the moment, revenue sharing is only a five-year program. At the end of five years, it could be vastly expanded or scrapped entirely. There is no question that Congress will be watching to see how the program works, how funds are used, how community input is sought and utilized, and whether state and local governments are indeed more responsive to the needs of their residents.