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The Chicago Segregation Problem: Exploring the Limitations of the 1980 Desegregation
Consent Decree

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Abstract

Ordered by the federal government, the 1980 Chicago Public School Desegregation Consent Decree was the most extensive attempt to desegregate the public school system in the history of Chicago. Yet, despite federal and local efforts, the Chicago Public School system remains one of the most segregated school systems in the country. This paper examines how the Consent Decree failed to create real changes in the segregated school system and how its unintended consequences left irreversible impacts in the school system. Drawing from court cases in the 1980s relating to the Consent Decree, archival material such as newspaper, monitoring commission reports assessing the Decree's implementation, and academic papers investigating segregation in Chicago, I find that the conflicting priorities and approaches of the federal government and the school board regarding funding and the demographic realities in Chicago greatly undermined the decree's effectiveness. By highlighting the decree's failures and long-term consequences, this paper contributes to the broader discussion on the limitations of legal mandates in addressing systemic racial segregation in education.

Keywords: Chicago Public School, Consent Decree, Segregation, School Desegregation, White Flight

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I. Introduction:

On September 24, 1980, the United States Department of Justice (DOJ) filed suit against the Chicago Board of Education for engaging in unlawful segregation in Chicago Public Schools (CPS). The lawsuit came at a time when systematic segregation perpetuated the schooling system – 82 percent of Black students in CPS attended highly segregated schools where at least 90 percent of the students were Black.¹ On the same day of the lawsuit, the DOJ and the Board submitted a previously negotiated Consent Decree to the US District Court for Approval. The Consent Decree set forth expectations for desegregation, requiring the Board to develop and implement a system-wide student desegregation plan. As a result, the Student Desegregation Plan was adopted by the Board in April 1981.

On the outset, the Consent Decree appeared to be a promising remedy to the systematic desegregation within CPS. It outlined several objectives such as establishing the greatest practicable number of stably desegregated schools and providing educational and related programs for any Black or Hispanic schools remaining segregated. Overall, the Board managed to meet the legal requirement of the Decree, bringing the system to a constitutionally acceptable level. However, over 40 years after the Chicago Consent Decree was enacted to desegregate schools, CPS remains one of the most segregated school systems in the country, according to the Educational Opportunity project at Stanford University. As one of the most significant efforts to

¹ Parrish, Madeleine; Ikoro, Chima. “Chicago Public Schools and Segregation | FIRSTHAND: Segregation.” 2022. WTTW Chicago. February 18, 2022. <https://www.wttw.com/firsthand/segregation/chicago-public-schools-and-segregation>.

desegregate schools, why did the Consent Decree fail to produce lasting integration, and what does this tell us about the challenges of using legal mechanisms to achieve educational equity?

The paper examines the limitations of the 1980 Chicago Consent Decree, especially reflected through the conflicting approaches and priorities of the federal government and the school board. I begin by introducing the decree itself, outlining its key objectives, provisions, and the mandated Desegregation Plan. Next, I provide historical context by discussing the national legal context for desegregation efforts, and segregation in the CPS in the two decades leading up to the decree. At the end of the section, I outline the prolonged and ineffective negotiations between the federal government and CPS, which ultimately led to the decree's creation. In the next two sections, I explore how the tensions between the federal government and the Chicago Board of Education shaped the decree's implementation, focusing on two major areas of conflict: a) funding disputes and b) the challenges posed by Chicago's demographic landscape, including residential segregation and white flight. I then evaluate the decree's outcomes, both its successes and its concerns. Finally, I analyze later attempts to address the decree's failures and how these efforts ultimately fell short due to the deeper structural issues such as White flight that the decree itself failed to resolve. By tracing the Consent Decree's impact and limitations, this paper aims to illustrate the broader challenges of desegregation efforts and the structural barriers that continue to shape educational inequality in Chicago today.

II. The 1980 Consent Decree and the 1981 Desegregation Plan

Consent Decrees are court orders made by a judge with the consent of all parties. It is not strictly a judgment, but a settlement agreement approved by the court. In the case of CPS, a deeply segregated school district, the Board reached an agreement with the DOJ in 1980 on the

Consent Decree as the first step of a plan to eradicate segregation in CPS.² On September 24, 1980, the Consent Decree was submitted to and approved by the United States District Court of Approval. The Decree is binding and enforceable on both the federal government and the Chicago Board of Education. It specified the responsibilities for both parties in Section 15 that “each party is obligated to make every good faith effort to find and provide every available form of financial resources adequate for the implementation of the desegregation plan”.³

The Consent Decree also established broad goals and expectations for a desegregation plan to be designed by the Board of Education by April 1981:

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

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

2.4 Fair Allocations of Burdens- The plan shall ensure that the burdens of desegregation are not imposed arbitrarily on any racial or ethnic group.⁴

It is worth noting that the Consent Decree itself only included a broad framework for a plan and is consisted of vague language such as “the greatest practicable number” but lacked concrete mandates for implementation. It did not set specific racial quotas in schools, define precise numerical targets for student placement, or establish a clear definition of what constituted a “desegregated school”. Joyce Hughes, chairman of the board’s Student Desegregation Committee clarified that according to the Consent Decree, “the Board can choose the solution which best meets the needs of Chicago and its citizens, given the practicalities of the city”⁵.

² Jackson, Shawn L., "An Historical Analysis of the Chicago Public Schools Desegregation Consent Decree (1980 - 2006): Establishing Its Relationship with the Brown v. Board Case of 1954 and the Implications of Its Implementation on Educational Leadership" (2010). Dissertations. Paper 129.

³ Consent Decree, 48

⁴ Ibid. 4

⁵ Banas, Casey; Branegan, Jay. “School board, U.S. set integration guideline”. Chicago Tribune (1963-1996); Sep 25, 1980.

Furthermore, the Decree also provided no definition of what constituted a “good faith effort” in securing financial resources or what level of funding would be considered “adequate” for the implementation of the desegregation plan. This vagueness later led to disagreements between the federal government and the Board over financial commitments and responsibilities.

In April 1981, the Board approved the Student Desegregation Plan which established the framework and timeline for the development of a comprehensive Student Assignment Plan (SAP). The Board also established the definitions for integrated and desegregated schools under the plan. Under the SAP, the Chicago Board of Education was required to ensure that no school had more than a 70 percent White enrollment and that the school system achieve a desegregation index of at least 2.0 – the total enrollment in integrated and desegregated schools must be at least twice the number of White students available for such schools – by October 1983.⁶

The Chicago Board of Education employed several strategies to implement the Desegregation Plan. One approach was the establishment of magnet schools, which offered specialized academic programs for the top students in the CPS system across different neighborhoods.⁷ The Board also utilized voluntary transfer programs, incorporating the busing of students from racially isolated schools, allowing students to enroll in schools outside their designated attendance zones to promote racial balance.⁸ Other strategies include teacher transferring, curriculum reform, and redistricting and boundary adjustments to encourage integration.⁹

⁶ Monitoring Commission Response to the Annual Desegregation Review, 1983-84. Part I: Student Assignment Plan. [Revised.] prepared by Mary Davidson. ED 336459 (Chicago, 1984)

⁷ Jackson. "An Historical Analysis of the Chicago Public Schools Desegregation Consent Decree (1980 - 2006): Establishing Its Relationship with the Brown v. Board Case of 1954 and the Implications of Its Implementation on Educational Leadership" (2010), 83.

⁸ Ibid.

⁹ Ibid.

III. The Winding Road to the Consent Decree

National and Legal Background

The 1980 lawsuit against the Chicago Board of Education was based on violations of the Equal Protection Clause of the Fourteenth Amendment and Titles IV and VI of the Civil Rights Act of 1964. By the time, federal courts had established that racial segregation in public schools was unconstitutional for more than two decades. To understand the legal foundations of this case, it is necessary to understand the development of the broader national efforts to desegregate schools.

The Fourteenth Amendment extended liberties and rights to formerly enslaved people in 1868. Specifically, it granted the citizenship to all people “born and naturalized in the United States” and provided all citizens with “equal protection under the law” in the equal protection clause in the first section. However, the Supreme Court’s ruling in *Plessy v. Ferguson* (1896) established the “separate but equal” doctrine, which permitted racial segregation as long as facilities were deemed comparable. This ruling led to widespread racial segregation and disparities, with Black students attending severely underfunded schools while White schools received greater resources.

It was later in *Brown v. Board of Education* in 1954 when the “separate but equal” doctrine was overturned. The Supreme Court decided unanimously that the separate facilities in schools based on race violated the equal protection clause of the Fourteenth Amendment, recognizing that the separate treatments were inherently unequal and no longer permissible. In 1955, the

Supreme Court issued an enforcement decree, commonly known as *Brown II*, which instructed states to begin desegregation plans "with all deliberate speed."¹⁰

Despite the ruling and enforcement decree, desegregation in schools was not implemented within the following decade. In response to continued resistance to desegregation, Presidents John F. Kennedy and Lyndon B. Johnson introduced the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, religion, sex or national origin. Specifically, Title IV of the Act addresses public education, authorizing the federal government to file suits to enforce school desegregation and integration where local and state governments failed to comply, and Title VI prevents racial discrimination by programs and activities that receive federal funds.

While *Brown v. Board* provided the legal foundation for integration, the Civil Rights Act provided the federal government the legal tools for enforcement. In cases such as *Green v. County School Board* (1968) and *Swann v. Charlotte-Mecklenburg Board of Education* (1971), the Supreme Court required school districts to actively implement desegregation measures rather than simply eliminate explicit segregation laws. It was in this context that the Department of Justice found CPS guilty of deliberately segregating its students in the 1980 lawsuit, violating both the Equal Protection Clause and the Civil Rights Act.

Segregation in Chicago

Between the *Brown v. Board* ruling in 1954 and the 1980 Consent Decree, Chicago, the third biggest school district in the nation, experienced various failed attempts to desegregate schools under three General Superintendents: Benjamin Willis, James Redmond, and Joseph

¹⁰ *Brown v. Board of Education*, 349 U.S. 294 (1955).

Hannon. In the 1970s, 43 percent of the 151,290 White students attended schools in which 90 to 100 percent of the students are White, while 86 percent of the 310,880 Black students attend schools that are 90 to 100 percent Black.¹¹

At the same time, white flight has become an emerging problem with middle-class White people left the city by the thousands to live in the suburbs. According to an analysis by Pierre de Vise, professor at the University of Illinois, Chicago lost half a million White people during the sixties and gained a third of a million Black people.¹² This phenomenon emerged primarily because the White population's resistance to living in an America "where people of all races had a piece of the pie and where children grew up to be successful enough to demand good-paying jobs and live in homes as nice as they could afford."¹³ Discriminatory housing policies, redlining, and White families's protests further accelerated White flight by reinforcing segregation and limiting Black families' access to suburban neighborhoods.¹⁴

The demographic shifts coupled with the persistent segregation within Chicago Public Schools drew increasing attention from federal agencies tasked with enforcing civil rights laws. As a result, the CPS came under growing scrutiny from the federal Department of Health, Education, and Welfare (HEW)¹⁵ and the Office for Civil Rights (OCR), a pattern that had begun during Benjamin Willis' tenure. In other words, the 1980 lawsuit did not appear overnight but was a product of continuous efforts and supervision of the federal government.

¹¹ Farrell, William. "Integration has Failed", New York Times, 9 November, 1975.

¹² Ibid.

¹³ Glanton, Dahleen. 2019. "Column: Yes, Michelle Obama Was Talking Directly to White People about Race. But There Was Something in Her Message for Everyone." Chicago Tribune. November 4, 2019. <https://www.chicagotribune.com/2019/11/04/column-yes-michelle-obama-was-talking-directly-to-white-people-about-race-but-there-was-something-in-her-message-for-everyone/>.

¹⁴ Voegeli, William . 2020. "The Truth about White Flight." City Journal. 2020. <https://www.city-journal.org/article/the-truth-about-white-flight>.

¹⁵ The HEW would later be split up By President Jimmy Carter, who created a separate Department of Education.

Benjamin Willis (1953-1966)

The period under Willis was characterized by separate and unequal treatments between Black and White students. Willis was infamous for his dismissive attitudes and unresponsiveness towards the Black population's demand for desegregation and a higher quality of education. In recognition of the overcrowded schools with high percentage of Black students, he introduced in 1962 aluminum portable classroom structures placed on school lots as an alternative to permitting Black students to attend majority White schools. The portable classrooms, later known as the "Willis Wagons," is just an example of the unequal schooling system during Willis' tenure. A survey by Chicago's Urban League found that in Black schools the budget for teachers' salaries was 15% less compared to those in White schools, and that operating expenses per pupil was increased by 66% for White students.¹⁶ Benjamin Willis's response to school segregation received attention from the federal government in the 1960s. The federal government charged him with "developing plans to utilize federal funding in areas that did not accommodate high populations of low-income underprivileged minorities".¹⁷ The HEW made the determination to withhold their financial support to the City of Chicago based on concerns of segregation within the school system.¹⁸ Amidst the segregation controversy under his tenure, Willis resigned in 1966 from the Chicago Public School.¹⁹

¹⁶ "The Education of Big Ben." Time Magazine, August 30, 1963.

¹⁷ Jackson. "An Historical Analysis of the Chicago Public Schools Desegregation Consent Decree (1980 - 2006): Establishing Its Relationship with the Brown v. Board Case of 1954 and the Implications of Its Implementation on Educational Leadership" (2010), 83.

¹⁸ Stringfellow, Christina Hawkins, "Desegregation Policies and Practices in Chicago During the Superintendencies of James Redmond and Joseph Hannon" (1991). Dissertations. 3181.

¹⁹ The New York Times, October 5, 1963, 1.

James Redmond (1966-1975)

James Redmond was appointed General Superintendent of the Chicago Public Schools in 1966 after the resignation of Benjamin Willis. He developed a desegregation plan he titled *Increasing Desegregation of Faculties, Students, and Vocational Education Programs*, later known as the Redmond plan. The plan was considered to be the first clear integration program in Chicago's history, with the long-term goal to anchor Whites that resided in the city.²⁰ The plan included the dispersion of limited numbers of black students into outlying majority-White schools from schools whose neighborhoods are becoming predominantly Black.²¹ Redmond introduced the busing system, first mandatory and then made voluntary, that mandated the busing of Black students to majority-White schools. No White students would be bussed to majority Black schools under the plan. The Redmond Plan received hostility from the Black population, labeling the plan as racist and discriminatory.²² The plan was adopted but soon failed as the school realized the costs of busing exceeded predictions, and parents were then asked to transport their children to school. Because of parents' disinterest in the plan, lack of private transportation, and schools being too distant or time-consuming to reach, effective desegregation did not happen.²³

Joseph Hanon (1975-1979)

The period under general superintendent Hanon was significant as it experienced continuous yet ineffective communications between the Chicago Board of Education and the

²⁰ Ibid.

²¹ Fleming, Helen. "Set Racial Quotas in Schools: Redmond", Chicago Daily News, 23 August 1967.

²² Stringfellow, "Desegregation Policies and Practices in Chicago During the Superintendencies of James Redmond and Joseph Hannon".

²³ Ibid.

federal government on desegregation, immediately leading up to the Consent Decree. One of the first problems Hanon encountered in office was the concern on teacher segregation, raised by the Office of Civil Rights (OCR) and the Department of Health, Education, and Welfare (HEW). In 1976, after less than a year in office, Hanon developed a plan titled *Plan to Integrate Local School Facilities, Equalize Staff Services, and Provide Special Services to National Origin Minority Children* to address staff segregation. However, despite the approval from the Chicago Board of Education, the plan was rejected by the OCR for the plan's lack of explanation on whether the professional experience of teachers assigned to work with minority students is comparable to those of teachers working with White students. The OCR requested a plan be submitted explaining how the CPS would develop a process to assign faculty so that it would comply with the goals for desegregation.

After successfully requesting a 60-day extension, Hanon outlined nine steps for CPS to comply with constitutional requirement on teacher assignment, and proposed a plan to reassign teachers across Black and White majority schools. The plan was rejected by the OCR again due to the projection of an unrealistically high number of teachers that would need to be reassigned to enforce increased staff integration.²⁴

In January 1977, Hanon proposed another plan to effectively integrate teachers by September of 1977. However, a federal judge ruled in February 1977 that the Chicago Board of Education was in violation on the federal faculty racial factor and a consultant was designated by the HEW to assist in the negotiations with the Board on staff integration, among other problems. On May 25th, the Chicago Public Schools Board of Education adopted a new plan it named *Integration of Faculties, Assignment Patterns of Principals and Bilingual Education Programs*,

²⁴ Ibid.

later known as *Access to Excellence*.²⁵ The plan consisted of completely voluntary approaches to integration. It included increased programs, centers, and facilities for students of all races, and funded transportation for those attending schools beyond walking distance. It also encouraged civic participation at all levels throughout its implementation with District and school advisory councils taking a major part in selecting or designing the facilities and programs.²⁶

Access to Excellence was designed to be implemented within a five-year period and to be realized by the 1982-1983 school year. However, in the spring of 1979, a letter from the OCR accused the Chicago Public Schools of purposefully violating the Civil Rights Act of 1964 and continually supporting segregation in its schools, making CPS ineligible for national funding. The letter stated that the OCR intends to file a suit against the district and demanded a tangible and immediate citywide desegregation plan.²⁷ Joseph Caifano, secretary of HEW said that the *Access to Excellence* plan "does not correct the violations identified."²⁸ David Tatel, the director of HEW, added that while HEW would cooperate with the Board in developing a new plan, the government did not have a proposal to offer.²⁹ He further warned that if Chicago refused to begin negotiations, he would refer the case to the Justice Department for court action.³⁰ During an interview with a local newspaper, Tatel commented that although White students are only 21 percent of the total school enrollment, the school board could take actions to increase desegregation well beyond Hannon's *Access to Excellence* plan.³¹

²⁵ Ibid.

²⁶ Ibid.

²⁷ Hannon, Joseph P. *Access to Excellence: Recommendations for Equalizing Educational Opportunities. Integration Plan*, April 12, 1978.

²⁸ O'Connor, Meg. "City faces school bias suit by U.S.," *Chicago Tribune*, 11 April 1979.

²⁹ Ibid.

³⁰ Banas Casey; O'Connor, Meg. "Busing plan needed, U.S. official says," *Chicago Tribune*, 12 April 1979.

³¹ Reynolds, Barbara. "Leave integration to Byrne: HEW aide," *Chicago Tribune*. 28 June 1979.

Hanon, on the other hand, believed that Chicago had made substantial progress in combating segregation through his plan.³² He responded to the letter by the federal government by requesting a hearing for him to tell the Chicago's side of the segregation controversy, stating that "we're not guilty of the allegations. we should be made eligible for funding."³³ In addition, he publicly expressed confusion over the federal government's lack of clear guidance, questioning, "What was good enough?" and "What did they mean by compliance?" Without explicit instructions, it remained unclear what standards needed to be met.³⁴

Several weeks after the federal hearing where Hanon defended his desegregation plan, which was then followed by further expansions of the plan, HEW stood by its previous charges that official board actions led to segregation, reiterating that *Access to Excellence* did little to reduce segregation. Having lost the appeal, Hannon could either negotiate with HEW for a new desegregation plan acceptable to both parties or face a federal court suit seeking to force desegregation.³⁵ A federal court mandated desegregation would mean the possibility of having to implement a plan with mandatory measures such as busing, which Chicago has been consistently avoiding to prevent potential resistance to desegregation, especially given the high participation rate – 38% – of its voluntary program.³⁶

Two days before the federal deadline, Hanon presented to HEW a revised and expanded version of *Access to Excellence*, focusing on equalizing the use of school facilities, introducing new program models, and improving program management and operation. However, the new plan again received criticism from both the public and the HEW due to a lack of cost estimate

³² Stringfellow, "Desegregation Policies and Practices in Chicago During the Superintendencies of James Redmond and Joseph Hannon".

³³ Banas, Casey. "Hannon to fight U.S. Charges of school bias," Chicago Tribune, 19 April 1979.

³⁴ Ibid.

³⁵ Stringfellow, "Desegregation Policies and Practices in Chicago During the Superintendencies of James Redmond and Joseph Hannon".

³⁶ Ibid.

and inadequate remedy to the segregated CPS system. Although the HEW proposed to continue negotiations with the CPS Board of Education given the Board agreed to HEW's definition of a desegregated school and submit an effective desegregation plan, the Board refused to proceed with negotiations.³⁷ This means that the HEW would submit Chicago's desegregation case to the Department of Justice. Hanon resigned in January 1980, after the failure to satisfy the federal government's requirements, leaving the CPS segregated and underfunded. A few months after Hanon's resignation, the Board, under the next superintendent Ruth Love, and the DOJ reached an agreement to eradicate segregation in CPS, the first step being the Consent Decree.

In conclusion, the years leading up to the Consent Decree displayed the continuous tensions and miscommunications between Hanon and the HEW. The HEW repeatedly found Hanon's efforts to desegregate the school system to be inadequate, while Hanon viewed the federal demands to be "unworkable and unreasonable" given the city's challenging demographic context.³⁸ With no shared understanding of what meaningful desegregation required, the process turned into an ongoing cycle of failed proposals and revisions, leaving both sides dissatisfied. By the time Hanon resigned in 1980, communication had broken down entirely, and a legal settlement became unavoidable. The Consent Decree, signed just months later, was not just about desegregation – it was a product of years of distrust and failed cooperation between local and federal authorities.

³⁷ Jackson. "An Historical Analysis of the Chicago Public Schools Desegregation Consent Decree (1980 - 2006): Establishing Its Relationship with the Brown v. Board Case of 1954 and the Implications of Its Implementation on Educational Leadership" (2010).

³⁸ Warren, Ellen. "Take School Fight to Court-HEW," Chicago Sun-Times (October 19, 1979).

IV. Federal Government vs. the Board: Debate on Federal Funding

Approved in 1980, the Consent Decree was a legally binding agreement between the federal government and the Chicago Board of Education, outlining broad goals for desegregation without imposing specific mandates or numerical targets. As mentioned in Section II, it tasked both parties with making a “good faith effort” to secure adequate funding for the desegregation plan but failed to define what constituted an adequate level of financial support. This ambiguity set the stage for ongoing disputes over financial commitments, with the Board and the federal government holding differing interpretations of their obligations.

The funding problem was the most prominent example of the consequence of tensions between the Board and the federal government on the Consent Decree’s implementation. In 1986, District judge Marvin Aspen commented on the attitudes between the Board and the federal government in regard to the dispute on whether federal government has provided adequate funding for the implementation of the desegregation plan:

We have commented earlier on the parties' bitterness toward each other ... If the parties are ever to work smoothly together, some of their attitudes and assumptions must change. The United States seems ever-ready to attack a Board proposal rather than eager to work with the Board in designing a reasonable proposal; it presumes inadequacy ... While the government should scrutinize the Board's proposals carefully, it should be more flexible in its approach. In turn, the Board should move from its presumption that virtually every government criticism is illegitimate and prompted by ill-will. ... Despite its history of possible bad faith, the United States surely has legitimate concerns and has raised some legitimate criticisms.³⁹

The debate over funding stemmed in part from what Judge Aspen described as the “bitterness” between the two parties, but it was further exacerbated by the vague language of the Consent Decree. While school districts typically receive funding from a variety of sources, the Consent Decree explicitly required contributions from both the Chicago Board of Education and

³⁹ *United States v. Board of Education of the City of Chicago*, No. 80 C 5124 at p. 10 n.8 (N.D. Ill. July 17, 1986)

the federal government to support the desegregation plan. However, disagreements arose over the federal government's financial responsibility, with the Board expecting greater federal support than the government was willing to provide. The difference in interpretation of the Consent Decree fueled conflicts, and the discrepancy between the Board's expected and received financial support undermined the implementation of the desegregation measures.

Timeline of Debate on Funding

The Board first filed a complaint to the court and sought payment from the federal government in May 1983 because they believed that the language in the Consent Decree entitled them to government funds. Despite the federal government's disagreement, Judge Milton Shadur ruled in June 1983 in *United States v. Board of Education* that the United States failed to use its best efforts to find and provide all available financial resources adequate for full implementation of the Desegregation Plan. The court found that the Board fulfilled its obligations under the Consent Decree, particularly including Section 15.1 regarding its funding obligations. However, the Board could not obtain adequate financing for the full implementation of the Plan without receiving financial assistance from the United States.⁴⁰ The ruling required that the federal government provide \$103.8 million for implementation of the Plan in school year 1984-1985.⁴¹

The federal government was not satisfied with the district court's ruling and requirement. In July 1983, the Justice Department filed papers with the U.S. Court of Appeals stating that the previous judgment was unwarranted.⁴² They argued that funding provided for Chicago's desegregation plan would be taken from funding for other school districts, and challenged the

⁴⁰ *U.S. v. Bd. of Educ. of City of Chicago*, 567 F. Supp. 272 (N.D. Ill. 1983)

⁴¹ *United States v. Bd. of Educ. of City, Chicago*, 717 F.2d 378 (7th Cir. 1983)

⁴² Mirga, Tom. "Justice Department to Contest Chicago Desegregation Funding," *Education Week*, July 27, 1983.

amount that CPS demanded for the implementation of its Plan.⁴³ The Court of Appeals found that Judge Shakur misinterpreted the provisions in the 1980 Consent Decree, stating that the Consent Decree only required that the Chicago Public School District receive “top of the line priority” for funds from Educational Department (which replaced the HEW in late 1979) accounts that can be used for desegregation purposes, but did not require lobbying the Congress for desegregation funds for Chicago. As a result, Chicago would be forced to cut some of its programs and staff, eliminating \$20 million dollars from its desegregation budget during the 1983-84 school year.⁴⁴

Consequence of inadequate funding

The funding debate provided a huge barrier in the implementation of the Desegregation Plan, especially given the costly nature of the strategies employed in the Plan, such as busing, teacher transfers, and magnet schools. In a Chicago Tribune article in 1983, Ben Williams, the associate superintendent in the board’s Office of Equal Educational Opportunity, stated, “The board spent what it could afford, and that is not enough. It bears no comparison with what we need to spend. We have not had the resources necessary to give equal educational opportunities to Black and Hispanic children.”⁴⁵

One of the main strategies of the Desegregation Plan was the creation of integrated magnet schools and magnet programs, offering specialized and high-quality courses to 250,000 brightest students of all races in the school district, determined by exams.⁴⁶ The creation of magnet schools greatly benefited the small number of the top students selected, but still led to

⁴³ Jackson, "An Historical Analysis of the Chicago Public Schools Desegregation Consent Decree (1980 - 2006): Establishing Its Relationship with the Brown v. Board Case of 1954 and the Implications of Its Implementation on Educational Leadership" (2010).

⁴⁴ Ibid.

⁴⁵ “City school desegregation plan benefits only the top students”, July 17, 1983, Chicago Tribune.

⁴⁶ Ibid.

unsatisfactory result, or even furthered segregation, because of the lack of funding in the school system. Because of the limited number of magnet schools created with the limited financial resources, the CPS left behind 405,000 students, most of them minorities, in “general” schools in segregated neighborhoods with a lack of resources, money, and materials.⁴⁷ Blacks and Hispanics are underrepresented in the magnet programs – while more than 1 in 10 White students were in such programs, less than 1 in 20 Black or Hispanic students were.

V. Federal government vs. the Board: Demographic landscape in Chicago

The negative consequences of insufficient funding were exacerbated by Chicago’s entrenched residential segregation and history of White flight, which further undermined the effectiveness of the Consent Decree’s implementation. Decades of discriminatory housing policies created serious racial and economic divides, which led to deeply segregated neighborhoods and segregated schools. At the same time, White and affluent families left for the suburbs or private schools, accelerating White flight and further depleting resources for predominantly Black and Hispanic schools. The Chicago Board of Education’s and the federal government’s divergent approaches to desegregation exacerbated these demographic issues. While the Board sought flexibility in addressing segregation within the constraints of Chicago’s residential patterns, the federal government focused on compliance with broad desegregation mandates without fully accounting for the realities of White flight and neighborhood segregation.

⁴⁷ Ibid.

Residential segregation in Chicago

As millions of Black people moved to Northern urban areas during the Great Migration, the newcomers who decided to reside in Chicago found housing and employment where generations of Black Chicagoans already lived. This was in part a choice to live with one's community and in part forced due to anti-Black racism.⁴⁸ As Chicago expanded in all directions, Black Chicagoans remained confined to an area known as the Black Belt, where most Black population lived, due to redlining and other discriminatory housing policies.⁴⁹ Social scientists have consistently regarded Chicago as one of the most residentially segregated cities in the country.⁵⁰ Schools drew their student populations from surrounding neighborhoods. Because neighborhoods remained segregated, schools often reflected the demographic composition of their local communities, perpetuating segregation despite efforts to integrate.

Busing

A promising way for the CPS to alleviate the consequences of housing segregation on school segregation was busing, the transportation of students from their neighborhood to schools, including magnet schools, located in other neighborhoods. Although busing increased the number of students in integrated schools, it eventually failed as a comprehensive solution for desegregating the school system.

Busing was first introduced by Redmond as a voluntary method. CPS maintained the consistency of busing during Hanon's tenure. Even when busing was voluntary, it had its

⁴⁸ Leiter, Zachary. 2023. "Chicago's 250 Year History of Segregation." The Chicago Reporter. August 30, 2023.

⁴⁹ Ibid.

⁵⁰ Jackson, "An Historical Analysis of the Chicago Public Schools Desegregation Consent Decree (1980 - 2006): Establishing Its Relationship with the Brown v. Board Case of 1954 and the Implications of Its Implementation on Educational Leadership" (2010).

detractors. Some White families resisted the idea of their children traveling to different neighborhoods for school, and some saw it as an unnecessary burden on taxpayers. In an article in *Illinois Issues*, Doris Galik, a parent from the Gage Park neighborhood commented on the *Access to Excellence* Plan by Hanon: “The only thing *Access to Excellence* will teach us is how to ride a bus at the taxpayers’ expense.”⁵¹ Given the already-existing resistance, tensions escalated when the Consent Decree mandated busing as a required tool for desegregation.

Section 4.2 of the Consent Decree outlined that:

Mandatory reassignment and transportation, at Board expense, will be included to ensure success of the plan to the extent that other techniques are insufficient to meet the objective stated in 2.1. The plan may limit the time or distance of mandatory transportation to ensure that no student shall be transported for a time or distance that would create a health risk or impinge on the educational process.”⁵²

The DOJ argued that voluntary busing was not a sufficient measure for the district to be desegregated. On the other hand, mandatory busing would have cost much more than what the Board could afford, especially given the limited funding provided by the federal government.

Under the Desegregation Plan in 1981 and 1982, CPS spent \$23.1 million, more than a quarter of the total expense of the Plan, on voluntary busing, putting 100,205 students (23% of enrollment) in integrated school.⁵³ Eventually, given the high cost of busing as well as the effectiveness of voluntary busing, District Court Judge Milton Shadur allowed busing as a non-mandatory measure in 1983, provided that CPS reached the goals set in the Desegregation Plan by October 1983.

⁵¹ McClory, Robert. “Chicago’s Reaction to ‘Access,’” *Illinois Issues*, September 18, 1978, 2.

⁵² Consent Decree 1980.

⁵³ “City school desegregation plan benefits only the top students”, *Chicago Tribune* July 17, 1983.

Despite the compromise made by the federal government, the transportation of Black students into White schools still led to retaliation from White families. Schools that attempted to integrate their populations were gradually being depleted of their White students.⁵⁴

Rapid Demographic Change – White flight

White flight encompasses two types of behavior: first, the movement of White students from public to private schools; and second, the movement of White families out of a school district altogether.⁵⁵ White enrollment in the Chicago Public Schools continued to drop as integration efforts intensified, reflecting a core dilemma CPS was facing, the very efforts to promote desegregation exacerbated and accelerated White flight in Chicago.⁵⁶ Decreases in White enrollment correlated positively with the increase in Black enrollment that accompanied desegregation.

White flight began long before the Consent Decree. In the study “Trends in School Segregation 1968-73,” James Coleman, Sara D. Kelly, and John Moore examined the integration efforts in CPS. They stated that practices designed to integrate students may not always be a positive thing, especially given the possibility of government intervention having adverse effects, White flight being one of them. One of their main findings was that desegregation efforts perpetuated segregation because White students would ultimately remove themselves from the public school population.⁵⁷ While the data did not show a continuous increase in White student

⁵⁴ James C. Carl, “The Politics of Education in a New Key: The 1988 Chicago School Reform Act and the 1990 Milwaukee Parental Choice Program” (Ph.D. Dissertation, University of WisconsinMilwaukee), 1995.

⁵⁵ Jayapal, Susheela, "School Desegregation and White Flight: The Unconstitutionality of Integration Maintenance Plans," University of Chicago Legal Forum: Vol. 1987: Iss. 1, Article 16.

⁵⁶ Ibid.

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

loss after desegregation was implemented across Chicago as aggregated whole, it did indicate that as the proportion of Black students in a school grew, the rate at which White students left the school also increased.⁵⁸

Instead of addressing the problem of White flight, the Consent Decree sustained the fleeing of the Whites from the system, presenting it as a viable solution for the White families to resist further integration. The federal government remained focused primarily on numerical compliance ensuring no school had more than a 70 percent White enrollment rather than addressing the broader issues of racism. The federal government dismissed concerns that aggressive desegregation policies could exacerbate White flight leading to greater racial segregation between the public and private school systems and between the city and the suburbs. In previous court cases such as *United States v. Scotland Neck City Board of Education* (1972), the federal government denied considerations of White flight, stating that school board's fear of white flight could not justify its attempt to escape court-ordered desegregation and insisting that compliance with desegregation requirements took precedence over concerns about demographic shifts.⁵⁹ In 1983, federal judge Milton Shadur acknowledged the complexity of the issue surrounding White flight in Chicago when he wrote, “Admittedly, the choice is a delicate one. Concerns as to 'white flight' are legitimate, but they cannot be permitted to dictate planning so as to impair constitutional rights.”⁶⁰

The federal government’s unwillingness to account for the rapid demographic change ultimately weakened the effectiveness of the Consent Decree, as integration targets were met on

⁵⁸ Ibid.

⁵⁹ Jayapal, "School Desegregation and White Flight: The Unconstitutionality of Integration Maintenance Plans," 1987.

⁶⁰ *United States of America v. Board of Education of City of Chicago*, 554 F. Supp. 912, 1983 U.S. Dist. (United States District Court, Northern District of Illinois, Eastern Division January 6, 1983).

paper while actual segregation in Chicago remained deeply entrenched due to White flight. White enrollment in the CPS totaled 34.6% of the school district in 1970, 19% in 1980, and declined an additional 8% by 1990.⁶¹ By the 1990s, two-thirds of Chicago's White students attended private schools.

VI. Overall effects of the Consent Decree

Positive outcomes created by the Consent Decree

Despite the barriers created by tensions between the federal government and the board as well as the demographic context in Chicago, the Board still managed to desegregate its students, meeting the legal requirements outlined by the Consent Decree – ensuring that no school had more than a 70 percent White enrollment and that the school system achieve a desegregation index of at least 2.0.

In general, the annual desegregation reports issued by the CPS reflect positive effects of the Desegregation Plan and the main goals outlined in the Student Assignment Plan were reached. The desegregation index, the total enrollment in integrated and desegregated schools over the number of White students available for such schools, increased from 1.59 in 1981 to 2.15 in 1983 and 2.48 in 1986.⁶² Only 8 schools had more than a 70% White enrollment in 1983, and no school had more than a 70 percent White enrollment in 1986.⁶³ A significant outcome of this progress was that CPS avoided mandatory busing, a measure that could have led to both

⁶¹ Carl, “The Politics of Education in a New Key: The 1988 Chicago School Reform Act and the 1990 Milwaukee Parental Choice Program”, 1995.

⁶² Monitoring Commission Response to the Annual Desegregation Review, 1987-88. Part I: Student Assignment Component. prepared by Mary Davidson. ED 336467 (Chicago, 1989); Monitoring Commission Response to the Annual Desegregation Review, 1986-87. Part I: Student Assignment Component under the Student Desegregation Plan for the Chicago Public Schools. prepared by Mary Davidson. ED 336464 (Chicago, 1988); Monitoring Commission Response to the Annual Desegregation Review, 1983-84. Part I: Student Assignment Plan. [Revised.] prepared by Mary Davidson. ED 336459 (Chicago, 1984)

⁶³ Ibid.

higher financial burden and heightened public backlash. Federal district judge Milton Shadur had ruled that busing would not be required unless CPS failed to meet its desegregation targets by 1983. Since the Board successfully fulfilled these requirements, it was able to sidestep forced busing, avoiding further White Flight and increase in budget.

Concerns about the positive effects

While CPS appeared to meet its desegregation targets, the reported progress was largely a reflection of how compliance was measured rather than a true indicator of meaningful integration. Since the plan only required schools to stay below a maximum percentage of White students, the decline in White enrollment due to White flight made it easier for the district to meet the numerical thresholds for integration on paper, even though meaningful desegregation was not necessarily achieved. According to a *Chicago Reader* article in 1988, the actual number of minority students in integrated schools remained relatively stagnant despite official reports of improvement. In 1980-1981, 41,778 of the public schools' 371,306 minority students attended integrated schools. Five years later, 53,211 of 368,161 minorities were in integrated schools.⁶⁴

Questions about how minority students were counted in integration efforts also emerged, as CPS increasingly relied on Hispanic students to meet desegregation targets. An anonymous source in responded to the 1982 desegregation plan report claiming that "little change occurred in segregation between 1980 and 1982."⁶⁵ They argued that one reasons CPS appeared to be desegregated in the annual report was because the definition of minority included both Black and Hispanic students. In the 1970s and 80s, the system of categorization in CPS includes Black, White, and Hispanic students, whereas in previous decades Hispanics were considered a part of

⁶⁴ Bogira, Steve. 1988. "School Desegregation." *Chicago Reader*. January 28, 1988.

⁶⁵ "Chicago Faulted on desegregation", *New York Times*. July 11, 1983.

the White demographic. By including both Black and Hispanic students under the minority category, the data potentially overestimated the real effects of the Consent Decree. In practice, this could mean a school with 65% White and 35% Hispanic students is counted as desegregated, even though it contains no members of the Black population that itself makes up 60% of the entire school system.⁶⁶ In reality, segregation patterns remained largely unchanged. The average Hispanic student is four times more likely to be sitting next to a White student than is the average Black student. In 1980, 82% of Black students in CPS attended highly segregated schools where at least 90% of the students were Black. In 1989, almost ten years after the consent decree was signed, 75% of Black students were still in extremely segregated schools.

VII. Later Attempts to Rectify the Consent Decree's failures

By the early 2000s, it had become clear that the 1980 Consent Decree had failed to produce lasting integration in CPS. Desegregation efforts had resulted in widespread White flight and the further isolation of Black and Hispanic students in underfunded schools. In response, the Modified Consent Decree of 2004 was introduced to address gaps in compliance, particularly in areas such as magnet school admissions, student transfers, and school openings and closings.⁶⁷ The federal court acknowledged that despite CPS meeting its original numerical desegregation goals, the district remained deeply segregated, and the racial composition of schools no longer reflected the city's changing demographics.

The Modified Consent Decree primarily focused on the expansion of magnet schools. It aimed to increase the racial diversity of magnet schools, ensuring that these specialized programs

⁶⁶ *United States v. Board of Educ. of City of Chicago*, 554 F. Supp. 912 (N.D. Ill. 1983)

⁶⁷ Jackson, "An Historical Analysis of the Chicago Public Schools Desegregation Consent Decree (1980 - 2006): Establishing Its Relationship with the *Brown v. Board* Case of 1954 and the Implications of Its Implementation on Educational Leadership" (2010).

would not become predominantly Black or Latino, as had been the trend.⁶⁸ It also aimed to provide equitable access to high-quality education across racial groups, counteracting the concentration of resources in predominantly White or affluent schools, and strengthen oversight mechanisms to ensure compliance with integration efforts.⁶⁹

However, these goals were never fully realized. By 2008, only 10 of Chicago's 27 magnet schools were racially mixed, while the remaining 17 were overwhelmingly Black or Hispanic.⁷⁰ This segregation was also reflected in Chicago's selective enrollment high schools, where despite making up half of CPS's total student population, Black students represented only 29% of selective enrollment students.⁷¹ The trend suggested that even when efforts were made to encourage racial diversity in prestigious schools, systemic barriers, including residential segregation, uneven access to resources, and biased admissions practices, continued to prevent meaningful integration.⁷²

In 2006, the court implemented a Second Consent Decree, adding new monitoring structures and accountability measures to ensure that the desegregation efforts were being followed.⁷³ However, by this point, the damage inflicted by decades of failed policies was too deep to reverse. White flight had permanently reshaped the racial composition of the school district, making large-scale integration virtually impossible. Families who had left CPS during the initial years of desegregation never returned, and many White and affluent families had come to see private or suburban schools as the default alternative to Chicago's public school system.

⁶⁸ United States of America v. Board of Education of the City of Chicago, United States District Court, Northern District of Illinois, 80 C5124, 2004.

⁶⁹ Ibid.

⁷⁰ Karp, Sarah. 2008. "Losing Diversity." The Chicago Reporter. November 7, 2008.

⁷¹ Ibid.

⁷² Jackson. "An Historical Analysis of the Chicago Public Schools Desegregation Consent Decree (1980 - 2006): Establishing Its Relationship with the Brown v. Board Case of 1954 and the Implications of Its Implementation on Educational Leadership", 2010.

⁷³ Ibid.

By 2009, CPS officials conceded that with White enrollment at just 9%, meaningful desegregation was no longer feasible.⁷⁴ A federal judge officially lifted the Consent Decree, ending nearly three decades of federal oversight. The decision marked a final acknowledgment of the Consent Decree's failure, not only to desegregate CPS effectively but also to prevent the long-term consequences of racial isolation from deepening over time.

Ultimately, the two later attempts to rectify the Consent Decree's failures were unsuccessful because they could not undo the entrenched segregation that the decree itself had reinforced. By allowing White flight to continue unchecked and failing to address the deeper structural inequalities in housing and school funding, the Consent Decree normalized the idea that racial integration in schools was optional – something that could be abandoned when it became inconvenient. The same mindset persisted in later decades, resulting in that every subsequent desegregation effort faced even greater resistance than the last.

The 1980 Chicago Consent Decree was intended to be a major step toward desegregating the city's public schools, yet its outcomes reflect the broader challenges of segregation in Chicago, as well as differences in approach and vision between the Board and the federal government. As Circuit Judge Joel Flaum commented:

“The history of this decree is notable not for its success in raising an allegedly segregated school system to a constitutionally acceptable level, but for what it has illuminated about the character and limitations of the executive, municipal, and judicial institutions involved.”⁷⁵

Chicago's failed desegregation efforts through the Consent Decree offer a cautionary tale about the limitations of legal remedies in addressing systemic inequality. While consent decrees

⁷⁴ Karp, Sarah. “Federal Judge Ends Chicago Schools Desegregation Decree.” 2009. Chicago Reporter. September 25, 2009. <https://www.chicagoreporter.com/federal-judge-ends-chicago-schools-desegregation-decree/>.

⁷⁵ *U.S. v. Board of Educ. of City of Chicago*, 799 F.2d 281 (7th Cir. 1986)

can set mandates for change, they cannot, on their own, undo decades of discriminatory policies and socioeconomic forces that shape school segregation. Ultimately, the failure of the Consent Decree was not just in its inability to desegregate schools, but in its failure to challenge the underlying systems that made segregation inevitable.

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