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A Socio-Historical Analysis of the Benton Harbor, Michigan Desegregation Case between 1967 and 1981

Tiffany Anne Loftus Butzbaugh

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A SOCIO-HISTORICAL ANALYSIS OF THE BENTON HARBOR, MICHIGAN
DESEGREGATION CASE BETWEEN 1967 AND 1981

by

Tiffany Anne Loftus Butzbaugh

A Dissertation
Submitted to the
Faculty of The Graduate College
in partial fulfillment of the
requirements for the
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Department of Sociology

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ACKNOWLEDGEMENTS

In sincere appreciation for his endless encouragement and assistance,
dedicated to Alfred Moore Butzbaugh.

Tiffany Anne Loftus Butzbaugh
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CHAPTER I
INTRODUCTION

The 1954 Supreme Court decision in Brown v. Board of Education ("Brown") began a revolution in American education. The opinion of the court states, "We conclude that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal" (Brown 347 U.S. 495). The Court's unanimous decision is a strong statement about public education: "... that racially separate schools are educationally harmful to all students; that separation stigmatizes blacks and whites; that racial discrimination cannot be an educational policy" (Yarmolinsky 1981, p.1).

For almost 50 years scholars have attempted to interpret the decision which marks a turning point in America's willingness to face the consequences of centuries of racial discrimination. Kirp outlines the differences in interpretations:

"Interpretations on the basis of the decision and its effect on the meaning of equal educational opportunity vary. Brown may be read as asserting that the use of race as a standard for determining who goes to what school violates the Fourteenth Amendment. Another reading of Brown sees the Court's decision as broadening the concept of equal facilities to use integration as one of those "facilities." A third reading regards Brown as asserting that equal educational opportunity depends not on facilities but on the effects..."
of schooling, and that the harmful effects of state-imposed segregation on Negro schoolchildren's performance render that segregation unconstitutional” (Kirp 1969,152).

The courts have concentrated on the first interpretation of Brown mentioned above. District by district the fundamental principle that racial discrimination in public education is unconstitutional has been fought for and upheld by the courts. The National Association for the Advancement of Colored People (NAACP) sees Brown in this way, as a mandate forbidding state-created racial segregation. Where the NAACP sees racial discrimination, it fights in the courts to eliminate that situation (Kluger 1976, 10). The battle has been fought in courtrooms and board of education rooms. One of the legacies of Brown, for example, is affirmative action, a controversial practice of striving to create a diverse workplace or classroom by attempting to level the playing field and by providing opportunities to an under-represented minority group. The Supreme Court agreed to interpret the constitutionality of affirmative action at the university level by hearing in the spring of 2003 two cases involving the University of Michigan's admission policies in the undergraduate school and the law school (Greenhouse 2002, C1). In the Northwest Ordinance of 1787, the Continental Congress required that Michigan actively foster a sound educational system. In the present Michigan Constitution, as in the previous Constitutions, the language leaves no doubt as to the importance of education in Michigan when it says that “religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged” (Michigan Constitution 1963, Art. VIII, s 1).
For more than a century, Michigan law has required that a unitary school system be used by all local school districts. A unitary school system is one in which “no person is to be effectively excluded from any school because of race or color” (*Alexander v. Holmes County Board of Education*, 1969).

The *Session Laws of Michigan* of 1867, Vol 1, page 42 provides:

> All residents of any district shall have an equal right to attend any school therein, provided that this shall not prevent the grading of schools according to the intellectual progress of the pupils, to be taught in separate places when expedient. In its present form, that statute reads that “(a) separate school or department shall not be kept for a person on account of race, color, or sex” (M.C. L. A. s 380.1146).

Michigan has had four state constitutions each of which provided for education free of discrimination (Hines 1974, 97). That does not mean that all children of Michigan have had equal educational opportunities or attended integrated schools. Because *de jure* segregation is and has been illegal, segregation in Michigan has been *de facto*, the separation of the races due to residential housing patterns linked with a system of neighborhood schools. In some cities, such as Benton Harbor, judges find that the *de facto* segregation is not merely fortuitous, but is a result of board of education action, and the judges order the districts to desegregate. The segregated schools may be the result of neighborhoods which are segregated. School boards claim that residential segregation is not a result of their actions, but courts have found otherwise. The courts sometimes find that
decisions the school boards make intentionally perpetuate segregated schools. The decision 
about the location of attendance areas, drawn by the board, is one factor which leads to 
school segregation within a district, for example.

One may discover board action or inaction and the results of that action or 
inaction only by studying each system and its history. The problem lies in defining and 
proceeding against *de facto* segregation. The court test hinges on three variables, as 
discussed by Vergon and Wilson (1978). These are (1) the existence of one or more 
racially identifiable schools; (2) action or inaction on the part of school officials which 
caused the condition of identifiableness; (3) intent to segregate on the part of school 
authorities (Vergon and Wilson 1978, p. 6). Each test is subject to varying definition and 
debate. The Michigan State Board of Education has guidelines which I will discuss in a 
later section of this paper.

One way courts determine intent is by studying each system and its history. The 
courts scrutinize board of education decisions, and courts consider the information that is 
available to the board at the time of the decision, the options available to the board, and 
the results of the decision in terms of more or less segregation for the school system.

Need for the study

There are many studies about students in segregated and desegregated schools, 
but there is a need for research on school systems which have been through the process 
of attempting to achieve desegregation under the supervision and order of a federal court. 
There is also a need to study Northern systems where *de facto* segregation exists, and a
need to examine the actions or inactions of the board over a period of years to see if any intent to separate the races is apparent. The desegregation case in this study was active from 1967 until 2002 and provides an example of how an extended federal case affects a school board, a school district, and a community. A socio-historical analysis of local decision-making in the desegregation process may be the most useful in a long-range analysis. St. John states that the most needed research is in the form of small-scale anthropological observations of the process of inter-racial schooling in a variety of settings (St. John 1975, p.122).

This document may provide to educators and planners better understanding of the segregation and desegregation processes. I will discuss the methods used by the court, the BHASD Board, the other defendants, and the citizens in their effort to desegregate the school system. Educational administrators, board of education members, and citizens interested in desegregation may find this information useful.

Purpose of the study

This study focuses on the history of the BHASD 1967, when Berry was filed, and 1981, when the federal court ordered the district to participate with two neighboring districts in a busing program. The purpose is to write a socio-historical analysis of Board of Education decisions regarding racial balance and imbalance in the BHASD. There are three practices of the board which the court found unconstitutional:

1. Allowing the transfer of Eaman and Sodus students to other school districts.
2. Employment practices: assigning of black staff members to only predominantly
black schools.

3. Using portable classrooms in minority schools to relieve overcrowding and purchasing a building to use as a junior high school which was located in a neighborhood which was predominately black.

Methodology

I will first present background information about school desegregation in three perspectives. This includes historical information, research findings on methods and results of school desegregation, and a study of local Michigan districts which have undergone court-enforced desegregation.

The following research questions are answered:

1. What was the situational environment in which each decision was made by the BHASD Board?
2. At the time of the decision did the BHASD Board have choices or options which would possibly have resulted in a less segregated situation?
3. How did the community react to the BHASD Board’s decision?
4. Was the effect of each decision more or less segregation in the BHASD schools?

These questions were developed to provide a focus for the information gathered concerning the relevant decisions made by the BHASD Board. These are the questions asked by the courts when they question whether a segregated situation exists and whether a court-enforced remedy is necessary. Because there was no clear answer to most of these questions at the time decisions were made, historical analysis can show the results
decisions and we may infer the intent of the board.

Definitions

**Segregation**: the socially-patterned separation of people, with or without explicit sanction. (Weinberg 1978, p.2).

**Desegregation**: the abolition of social practices that bar equal access to opportunity or that bar access to the “mainstream of American life” (Weinberg 1978, p.3).

**Integration**: the realization of equal opportunity by deliberate cooperation and without regard to racial and other social barriers (Weinberg 1978, p.3-4).

**Racial isolation**: the key term used by the Michigan Department of Education to describe racial identifiableness, the condition where the racial composition of students in any building fails to reflect the racial composition of students for the entire district. Specifically racial isolation exists, according to the state guidelines published in 1977, if:

1. The percentage of student enrollment in any race in any building varies more than 15 percent above or below the student percentage for that racial category in the district as a whole; or

2. The racial composition of staff in a single building varies more than 25 percent above or below the racial percentages of the faculty in the district as a whole (Michigan Department of Education 1977, p.9).

**De jure segregation**: separation of the races sanctioned by law. Legitimate power institutions participate in and sanction *de jure* segregation.

According to Judge Damon Keith in the Pontiac, Michigan, *Davis* case, “Where a 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" (*Davis* 1970, p.742).

*De facto* segregation: segregation in neighborhood schools existing because of housing patterns (*National Association of Intergroup Relations Officials* 1963, p. 22-31). *De facto* segregation which exists accidentally is not unconstitutional. However, the courts find much *de facto* school segregation exists due to purposeful action by the local board of education.

**Unitary school district:** A unitary school system is one in which “no person is to be effectively excluded from any school because of race or color” (*Alexander v. Holmes County Board of Education*, 1969).

**Scope and outline of the study**

Chapter 2 presents school desegregation in three perspectives. First, a brief history of school segregation before the *Brown* 1954 decision, and the progress of school desegregation since *Brown*. I discuss the research on school desegregation methods available to boards of education. The third perspective is the local, state of Michigan perspective. Literature exists in sufficient quantity and scope to analyze three Michigan districts—Pontiac, Kalamazoo, and Lansing.

Chapter 3 presents background information about Benton Harbor, describing the school system and the town as they grew. I briefly discuss the population growth, economy, and housing patterns of Benton Harbor. The residential pattern developed into *de facto* segregated neighborhoods and I explore how and why this happened. The
history of race relations in Benton Harbor will provide a foundation for our study of the desegregation case.

Chapter 4 contains an analysis of the BHASD Board’s decisions, in terms of court orders and public reaction from 1967 to 1981. I have already mentioned the socio-historical decisions: the transfer of white students out of the district, the hiring and placement of minority teachers, and the use of portable classrooms in minority schools. The four research questions provide the socio-historical analysis to understand the factors affecting the BHASD Board as it made decision in these areas.

Chapter 5 is a summary of the major finding of the socio-historical analysis. I reach several conclusions and make recommendations for further study.

Data sources

Sources are newspaper articles, BHASD Board minutes, census data, school district documents, other locally produced literature, and transcripts from court activities. Other important sources are interviews with: school administrators, BHASD Board members, and attorneys involved in the Berry case. Each interview focuses on the research questions and on the role each person played in the decisions. The selection of sources was based on availability, participation of the person in the case, reference from another participant or from a document, and the willingness of the source to provide information.
CHAPTER II

REVIEW OF THE LITERATURE

The topic of interest in my study is the relationship between school boards and the federal courts when a desegregation case is being adjudicated. The case I am discussing involves BHASD between the years 1967 and 1981 in the U.S. District Court, Western District of Michigan. Barbara Jean Berry filed the suit in 1967, and in 1981 the court ordered a student busing plan as a remedy to reduce segregation.

I am studying a small community in Southwestern Michigan between 1967 and 1981. I have not found literature which studies this community, but there are several significant federal lawsuits against cities in Michigan during the same period. I will discuss the cases which involve three cities in Michigan: Pontiac, Kalamazoo, and Lansing. Because these populations vary considerably, there is a need to study the relationship between the court and a town smaller than those mentioned and located in a more rural setting than they are. The percentage of black students varies in these cases, too. The size and nature of the school boards vary across the region and according to the size of the school populations. The public schools in a small community and the administrators of those schools have an impact on all the members of the community. During the years of this study, the effect of the federal lawsuit on the schools and the community led to changes which are still in progress.

Almost fifty years have passed since the Brown (1954) decision forged the way for school desegregation and there have been other changes which have affected
communities during that time. Housing patterns, immigration, school curriculum, and laws have resulted in major changes in those years. As we approach the fiftieth anniversary of *Brown*, authors such as Orfield and Yun (1999) and Rosen (2000) are asking why the schools are beginning to resegregate? What lasting effect does *Brown* have on public schools? Why have the federal courts allowed schools to discontinue the remedies which were approved and enforced during the 1970s and 1980s? (Hendrie 1997.) According to a new study by the Civil Rights Project at Harvard University, black and Latino students are now more isolated from their white counterparts than they were 30 years ago, before many of the overhauls from the civil rights movement had even begun to take hold (Orfield 1996). Samuel Issacharoff of Columbia Law School, a leading scholar of desegregation says, “Fifty years after *Brown versus Board of Education*, there is still no non-coercive mechanism for racial integration that has evolved in this country” (Rosen 2000, p. 1).

“Nationally, the shift is a result of several factors: big increases in enrollment by black, Latino and Asian students; continuing white flight from the nation’s urban centers; and the persistence of housing patterns that isolate racial and ethnic groups. But another big factor, the Harvard study found, has been the termination of dozens of court-ordered desegregation plans” (Orfield 1996, p. A14). The following graph, Percent Black and Latino Students in 90 to 100 Percent Minority School, 1968-1996 found at http://www.law.harvard.edu, shows the results of the Harvard study by Orfield and Yun in 1999 (Orfield and Yun, 1999, p. 36).
Black students typically go to schools where fewer than 31 percent of their classmates are white. That is less contact than in 1970, a year before the Supreme Court authorized the busing that became a primary way of integrating schools. Latino students attend schools where whites account for only 29 percent of all students, compared with 45 percent three decades ago, according to the study, which draws on Education Department data through the 2000 school year (Orfield 1999, p. A14).

My research about Berry and the relationship between the BHASD Board and the federal courts during the first years of the case will make an addition to the literature about school desegregation at the moment schools and courts are considering the trend toward resegregation. The difference between the approach I am taking and the approach of other authors (Clark 1995, for example) is my focus on the school board and not on the students. The relationship between the BHASD Board and the court is the critical relationship in determining the answer to the research question asking whether there is more or less segregation after the board’s decisions and the court’s decisions.

There were many defendants in the Berry case including: the Governor of Michigan, the State Board of Education (“SBE”), the Berrien County (Michigan) Intermediate School District (“BDISD”), Coloma (Michigan) schools, Eau Claire (Michigan) schools, BHASD, and individuals. The case was active in the court until June 2002 when Judge Douglas Hillman released BHASD from the busing remedy he ordered in 1981. The conflict between the BHASD Board and the court was complicated by the Board’s composition as elected officials of the community who were charged with providing the
best possible education for the children in the community. The members of the Board were also obliged to obey the law and the orders of the court.

Historical perspective

The legal breakthrough that opened the North to court-ordered school integration came in 1971 in cases involving Pontiac, Michigan and Pasadena, California. I will discuss the Pontiac case later in this paper. In both cases the district court judge held that a school system’s attendance plan is not merely built upon the city’s segregated neighborhoods, but, in fact, the plan created much of the neighborhood segregation and is therefore unconstitutional. *De facto* segregation became by board action *de jure* segregation. In 1973 a case had been accepted by the Supreme Court which ruled for the first time on the question of Northern *de facto* school segregation in *Keyes v. School District No. 1*, a Denver, Colorado, case. In a decision that still left many questions unanswered, the court rejected the theory that school boards have an affirmative duty to operate an integrated school system, and held that equal protection prohibits only state sanctioned or intentional dual school segregation. Thus the Court distinguished between *de facto* and *de jure* segregation only on the “purpose or intent” to segregate. *De facto* segregation need not be eliminated to satisfy constitutional requirements, except where that segregation has been shown to occur due to state (board) intent. Then the *de facto* situation is deemed a *de jure* situation, and the school board has a duty to eliminate the segregation.
The Court failed to explicitly enumerate the elements of proof sufficient to establish "intent" to segregate. However, Marshall feels that they implied two proofs:

1. What was the segregatory impact of decisions made by school authorities on site selection and student assignment?

2. Was the particular school board confronted with educationally sound and administratively feasible alternatives, the adoption of which would have resulted in a less segregation? (Marshall 1975, p.230-231).

Vergon found another test in Keyes: the court says that proof of intentional segregation in a portion of a district raises the presumption that other segregation within that district is also unconstitutional and must also be remedied (Vergon 1976, p.17). The burden falls upon the school authorities to show that the entire system is not thus "infected" (Kluger 1976, p. 770).

The Supreme Court, in five separate rulings on July 2, 1979, upheld court-ordered school desegregation plans, some of which included busing students to achieve integration. This was seen as a major step toward integrating public schools in Northern cities ("Court clears path . . ." 1979, p.1). The court in Dayton Board of Education v. Brinkman for the first time held specifically that there is an affirmative duty of the school board to disestablish a dual school system in the North. Dayton II, as it is called, endorsed the methodology of court-ordered systemwide desegregation with possible extensive busing when a separation of races has existed since 1954 due to acts or omissions of the board of education (Flygare 1979, p. 125).
Research perspective

The BHASD Board, a consolidated board after 1965, had available for its consideration various expert opinions about school segregation. One example of this research, sponsored by a grant from the federal government, is the 1966 Coleman Report on *Equality of Educational Opportunity*. This survey is the second largest social science research project in the country's history. It is the most important source of data on the sociology of American education in the 1960s. Mosteller calls it, "... a document of profound significance for the future of racial and ethnic relation in America" (Mosteller 1972, 5). The team of investigators headed by James Coleman of Johns Hopkins University studied 4,000 schools and 570,000 pupils. The team described student racial, ethnic, and social characteristics, and school characteristics and qualities, as inputs: levels of achievement on tests as outputs; and tried to find relationships between these inputs and outputs. The revolutionary finding was the differences in black and white schools as measured in terms of facilities, per pupil dollars spent, and curricular materials, seemed to make very little difference (Mosteller 1972, 19-20). What Coleman found to be important is the student’s home environment and peer group. In other words, educational output as measured by achievement is influenced by the students' social background and the social background of his peers.

This report changed the focus of desegregation research, for it seemed to imply that a guaranteed outcome of desegregation would be improved academic achievement. The converse of this would be that if academic disparity is not proven than integration is
unnecessary, or that perhaps integration should be reversible if test scores fail to improve during a trial period.

Rodgers and Bullock discuss this concept and the basic tendency to view school integration as a failure if it does not improve academic achievement for blacks. The reasoning is faulty because, "the obligation to desegregate the public schools was based on a legal principle guaranteed to all Americans by the Constitution, nor on pedagogic speculation" (Rodgers and Bullock 1974, p.139).

St. John has reviewed and analyzed 120 studies on school desegregation, focusing on the relationship of school racial composition to achievement, attitudes, or behaviors of children. How and when the desegregation efforts were carried out seem to be crucial variables of special interest to school boards. Her findings include the fact that while we know that desegregation has rarely lowered academic achievement for either race, we are ignorant as to many specifics. We do not know the most favorable black/white ratio, or the most favorable method to achieve desegregation, or how to enhance the quality and conditions of desegregation, so that teachers, parents and children benefit the most. She recommends we study in historic detail systems where desegregation has occurred (St. John 1975, p. 36-39).

In The Politics of School Desegregation, Crain (1968), in a project similar to this one, compared several school boards and the pressures exerted on them by various factions in the community because of the decision to desegregate. He analyzed school boards and their decision-making abilities, and found that the typical board operates rather independently of community leaders and is not greatly influenced by other city
officials because they are all part of the same race-based system (Crain 1968, p. 129). Even in desegregation issues, the behavior of the board is largely independent from civil rights activities and actions in the community (Crain 1968, p.138). A board is generally free to act within a broad range of options, and can mobilize community support for its actions, if it makes the effort. This is especially true in matters of racial policy, because most boards have taken decision-making power in this arena from the superintendent (Crain 1968, p.124). The outcome of desegregation issues, according to Crain, is mainly dependent upon the character of the school board and its members.

Methods of desegregation

The BHASD Board also had available research about the methods of desegregation and the best process for implementing a desegregation plan. The National Association of Intergroup Relations Officials book provides a comprehensive list, although St. John’s book can also be used (N.A.I.R.O. 1963, p. 54-58; St. John 1975, p. 38). The N.A.I.R.O. text outlines nine general methods to achieve desegregation:

1. Make careful site selections for new buildings.

Boards of education have often implemented or aggravated *de facto* segregation through the choice of sites for new buildings. Alternate sites may be available which would not increase or continue segregation. “The best time to do anything about segregation is in conjunction with building programs” (N.A.I.R.O. 1963, p. 54). Where it can be shown that alternatives leading to less segregation are available, intent to cause segregation can be implied. Careful site selection is essential to eliminating segregation.
2. Princeton plan.

This is a school pairing or sharing plan which generally involves elementary schools from bordering neighborhoods, where one has a high minority concentration and the other a low minority enrollment. The students attend one of the schools for grades one to three, for example, and the other for grades four to six. Often kindergartners attend their home school, as transportation of kindergarten children can become highly emotional due to their young age. There are variations on the pairing theme; the Lansing, Michigan, plan incorporates an innovative use of the school pairing concept. The school pairing method for desegregation is often advocated, but must be accompanied by desegregation of staff and the utilization of multi-racial curricular methods to be truly effective (Liebson 1967, p. 35).

3. School conversion/pupil dispersal.

This is useful in smaller towns with an old, basically minority, centrally located school. This school is closed, or converted for some other use, and the pupils dispersed to nearby schools. The school closing plan puts the burden for desegregation on the minority population, and generally does not work in a community with large numbers of minority schools (N.A.I.R.O. 1963, p. 58).


This method is sometimes used when a segregated school is converted to other uses. Ypsilanti, Michigan, did this when it established one kindergarten school for the whole system. The benefits are obvious: that grade will reflect the system-wide racial balance; special materials and staff will be centrally located; and both blacks and whites
share in the desegregation burden. This idea could be expanded and other single grade schools could be established throughout the system. However, a large number of students would require transportation, making this an expensive and probably unpopular option on any large scale.

5. Feeder patterns can be changed.

These changes can direct the flow of white and minority students to junior and senior high schools, if desegregation is needed at these levels. More often, however, *de facto* Northern segregation is seen at the neighborhood elementary school level.


This plan is often cited by a board of education reluctant to undertake system-wide desegregation but anxious to correct a specific problem. Wholesale transfers of students from a crowded, central, and probably minority school are effected. This can result in desegregation, but sometimes integration is not achieved if the group is taught as a unit by the receiving school (N.A.I.R.O. 1963, p. 58).

7. Free transfer or “freedom of choice.”

This plan is one of the least effective desegregation plans. St. John minces no words when she speaks of the freedom of choice plans she studied:

It is obvious from an examination of the record that most of these schemes were either designed to allow white parents to avoid any racial mixing for their children or else were implemented by reluctant administrators in a way that resulted in little desegregation for black children . . . Two ingredients seem to have been missing: commitment to
maximum integration on the part of school boards and administrators and restrictions against “white flight” (St. John 1975, p. 132).

The free transfer plan can only work if blacks are encouraged to transfer out of minority schools by giving them free busing, while at the same time not allowing whites to do the same thing. This would be an unpopular position for the school board. More often, free transfer means just the opposite, and whites transfer out of already imbalanced schools.

Bickel explains that a board of education would have the burden to explain why it chose a freedom of choice plan over any other plan more effective in achieving integration (Bickel 1970, p. 129).

8. Magnet schools or open enrollment plans.

This plan adds to the freedom of choice plan by making transfers more desirable and therefore more likely. The board of education, under this method, establishes certain target or magnet schools which have enriched programs. Then transfers to these schools are sought which would enhance the schools’ racial balance. The “magnet” must be compelling enough to attract middle class families to center city schools, and ghetto families to periphery schools, or the plan will fail (St. John 1975, p. 135).

9. Redraw a district’s lines.

Rezoning school attendance boundaries so that no school is racially isolated will indeed end segregation in that district. This rezoning can, but does not necessarily mean, busing of students. The N.A.I.R.O. points out six factors that school officials should consider when drawing school attendance lines—distance to school, natural or man-made

The importance and acceptability to the Supreme Court of bus transportation as a tool to help achieve racial integration became obvious in *Swann v. Charlotte-Mecklenburg Board of Education*, 402 U. S. 1 (1971) in which the Court ruled on a district court's desegregation plan involving bus transportation, and decided that this “remedial technique” was within the court’s power to order. The order allows that the distances traveled should be minimal and the receiving school should be appealing to the incoming students.

Coleman’s 1975 study, *Trends in School Segregation*, pointed out that “white flight” from desegregated districts where busing has been ordered can be so massive as to wipe out the desegregation gains. The conclusion was reached after studying 21 larger cities, but the effect was much smaller in the 46 smaller cities studied (Coleman and Moore 1975, 80).

Many rebuttals have been written concerning this Coleman research, some specifically concerned with the cities of Pontiac and Kalamazoo. Green and Pettigrew accused Coleman of letting his own anti-busing political opinions color his results (Green and Pettigrew 1976, 402). They point out six results based on Health Education and Welfare data from 86 Northern districts:

1. There has been a long-term trend of whites leaving central cities and blacks migrating to the cities.
2. All studies agree that desegregation and white flight are not related in smaller cities.
3. In metropolitan school districts, desegregation has little or no effect on white flight.

4. Court ordered desegregation has not had an effect on white flight different from desegregation resulting from other factors, i.e., neighborhood or residential transition.

5. The loss of white and black students from large central city districts is related to the proportion of blacks attending these districts.

6. While extensive desegregation may hasten white flight, especially in the large Southern metropolitan districts, the result may only be observed temporarily during the first year of desegregation (Green and Pettigrew 1976, p. 402).

The success or failure of desegregation methods

The Commission on Civil Rights has done much research on school desegregation and in its monograph “Racial Isolation in the Public Schools” lists six factors for successful school desegregation:

1. Leadership should be given by state and local authorities.

2. The desegregation plan should be applied to all schools in the community, and affect all neighborhoods as equally as possible.

3. Measures must be taken to minimize friction and guarantee student safety in the newly desegregated schools.

4. Educational standards must be maintained and/or improved. The experience awaiting at the end of the bus ride, if there is one, has to be worth the trip.

5. Classrooms within the school must be desegregated.

Desegregation in Michigan

Even though the State Board of Education does not believe that federal court intervention is necessarily the best way to achieve integration, federal courts have ruled in Michigan on school desegregation issues more often than in any other Northern state (Michigan Department of Education 1977, p. 6). I will discuss what has been done by other boards in other times and cities, and what research findings have been available to boards concerning desegregation methods and desirable outcomes.

Pontiac, Michigan

The Pontiac Board of Education had long favored neighborhood schools, and in 1964 passed a resolution:

The neighborhood school concept is believed to represent strong educational practice. Pupils will be guaranteed the right to attend the school which serves their attendance area as established by action of the Board of Education (U.S. Commission 1972, p. 17).

The Board also had as part of its 1964 policy that it “should provide an integrated school population insofar as possible” (Davis 1970, p. 738). By 1969 Pontiac had 29 elementary schools, ten built since 1954. School officials had modified elementary attendance zones twelve times from 1955 to 1969. Despite its policies, seventeen
schools were virtually all white, six schools all black and only six schools were integrated (Sloane 1973, p. 37).

According to the 1970 census, Pontiac had a population of 85,364 with 22,760 blacks and 4,368 of Spanish descent. The school district had 21,097 students, 38 percent black (Sloane 1973, p. 13). The Davis desegregation case, filed by the NAACP in 1969, alleged that the school district had discriminated against blacks in denying them the right to be educated under the same terms as white students, by drawing elementary attendance lines for the purpose of maintaining separate schools. The defendants admitted the existence of imbalance in the schools, but said that was solely due to housing patterns. The school authorities argued that they had no affirmative duty to rectify a condition they had not created. In February 1970, Judge Damon Keith found the Board had intentionally located nine new schools between 1955 and 1963 and arranged boundaries to perpetuate segregation patterns. Judge Keith said that segregation produced by school board action was just as surely state-imposed de jure segregation as that separation of the races required by state laws in the South (Grant 1976, p. 106).

In 1971 the Pontiac busing plan was implemented and 6,000 students were bused, leading to a series of protests. The National Action Group (N.A.G.) filed suit; the Ku Klux Klan destroyed ten buses by bomb in August 1971; nine N.A.G. followers were arrested for chaining themselves to a bus depot gate. At least two loaded buses were forced into accidents by cars attempting to run them off the road (Sloane 1973, p. 46). By November 1971, there was a decline in hostility. The Pontiac P.T.A., with 7,000
members began a counter-campaign with the slogan “Let’s Make It Work!” (U.S. Commission 1972, p. 23).

The Pontiac case has been studied for evidence of Coleman’s white flight phenomenon. Enrollment in the system in the first year of desegregation declined by 2,500 students, mainly white students. The system went from 33 percent black and 4 percent Spanish-American to 37 percent black and 5 percent Spanish-American in that one year (Sloane 1973, p. 50). The white flight stabilized in the second year of court-ordered busing. Some felt the decline had been occurring steadily for years before this, and could be explained by economic conditions and general loss of population in the city. Slawski stated that parental attitudes have displayed a remarkable stability over the years (Slawski 1976, p. 490-491). He claimed that Market Opinion Research data found that consistently over the study period approximately 70 percent of the black parents supported and 75 percent of the white parents opposed busing to achieve integration (Market Opinion Research 1975, p. iv).

Sloane found that many people in the community felt the Pontiac Board of Education and administration could have handled matters more effectively. As one community leader said, “The community would have been more cooperative if the Superintendent had said, ‘We are desegregating because it is the right thing to do for the children’ (Sloane 1973, p. 66).

Kalamazoo, Michigan

Judge Noel P. Fox found:

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“the Kalamazoo Board of Education followed a purposeful pattern of racial discrimination by intentionally creating and maintaining segregated schools in Kalamazoo” (Integrated Education, p. 80). Judge Fox found that the board had not consistently and resolutely followed a neighborhood school policy during the boom building years of the 1950s and 1960s. For example, elementary schools were not always situated nor boundaries drawn so that students were placed in the school closest to their home; the standard size of thirteen classrooms per school was often ignored; and many students were bused at district expense starting in 1966 (Integrated Education, p. 79).

Beginning in the 1950s, the Board of Education established a close working relationship with the Kalamazoo Board of Realtors, which had the following Code of Ethics of the National Association of Real Estate Boards:

“A realtor should never be instrumental in introducing into a neighborhood a character of property or occupancy, members of any race or nationality, or any individual whose presence will clearly be detrimental to property values in the neighborhood” (Integrated Education, p. 72).

This led to the situation in 1968 when 90 percent of the black students in Kalamazoo attended five of the twenty-nine elementary schools (U.S. Commission 1977, p.4). The NAACP filed suit in August 1971 asking the court to order no delay in the desegregation plan adopted by the board. Judge Fox ordered the plan put into effect and the schools were desegregated in September 1971. There was a trial in 1973 in which the
board appealed the order. Judge Fox's ruling was upheld. The board therefore was involved in an expensive court battle from 1968 to 1975, while implementing the desegregation plan. The following groups in the Kalamazoo community were in favor of the plan: The League of Women Voters, The Michigan and Kalamazoo Education Associations, The Parent Teacher Associations, the churches, and others (U.S. Commission 1977, p. 11). The local media, such as newspaper, radio and the television station, covered the events objectively and emphasized positive events occurring during the desegregation of schools (U.S. Commission 1977, p.10).

It is most instructive to read Judge Fox's opinion of the Kalamazoo case, to understand his rationale for declaring that the Kalamazoo Board of Education had intentionally pursued a policy of segregation. Integrated Education published excerpts from this case, known as the Oliver case, in their July-October 1973 double issue. Judge Fox stated that "the Kalamazoo Board of Education not only confined black elementary students to selected areas and schools, and acted to preserve other areas and schools for whites, but it also became associated with a realtor in the development of a new, predominately white, subdivision" (Integrated Education, p.73). From the mid-1950s the elementary school boundaries were rigidly drawn in black neighborhoods, flexible in transitional areas, and in general were not drawn so as to regularly place students in the school closest to their home (Integrated Education, p.78 and 80). In order to prevent blacks from attending white schools, additions were built or portable classrooms used, so the number of classrooms often exceeded the 13 required by the Kalamazoo model. As
we shall discuss in the next chapter, most of these situations could be found in the BHASD prior to 1970.

**Lansing, Michigan**

In the late 1960s Lansing had a school population of about 35,000, a minority population of 25-27 percent (with a black minority population of 15-17 percent), and a school system separated along racial and socio-economic lines. In April 1972 the Lansing Board of Education made a voluntary decision to look for strategies that could be employed to desegregate the school system (Griffore 1977, p.28). A voluntary desegregation plan involved 13 of Lansing’s 47 elementary schools. Of the 34 not involved, 30 were already desegregated. The Cluster Plan, a modified pairing plan involving busing, was implemented in 1973-74 and lasted two years.

An anti-busing parent group formed in 1972 and spearheaded a recall campaign of the five pro-cluster board members; in the election of November 1972, those five were recalled. The five newly elected board members were endorsed by the parent group and the new board voted 6-3 to rescind the Cluster Plan.

In the NAACP suit of 1975, Judge Fox ruled:

“The Lansing Board of Education, through its acts and omissions has created and maintained a segregated dual school system in violation of the Constitution and laws of the United States and the Constitution of the State of Michigan... (The Board) must submit on or before March 1, 1976, plans which could be
implemented in September, 1976, to remedy the Constitutional violations found in this case and end racial isolation throughout the school system" (Griffore 1977, p. 28).

Judge Fox found the Lansing School Board guilty by acts and omissions of intent to segregate its schools (Chronicle March-April 1976, p. 4). He found the school authorities had “knowingly chosen the more rather than less segregative alternative in selecting new school sites, changing attendance area boundaries, establishing student transfer policies, locating mobile units (portable classrooms), closing specific schools, and hiring and assigning faculty” (Chronicle March-April 1976, p.4). In 1976-77 desegregation was extended in the Lansing schools. The six clusters of the new Cluster Plan included 6,160 pupils, 2,575 of whom were bused. By fighting the original voluntary plan, the Board of Education lost control of the local scene, and ended with a result that extended busing to include more schools and more children (Griffore 1977, p.31).

The Lansing Board of Education appealed to the United States Court of Appeals for the Sixth Circuit. They argued that the Board had been influenced by its love of neighborhood schools. Judge Celebrezze replied:

“That has never, never been determined to be a valid defense. It can be said that the neighborhood school concept leads to the illegal ‘separate but equal,’ and I question the equal . . . You don’t have to prove subjective intent when the result is segregation. You’re not going to put school board members on the stand and get
them to say, ‘Yes, our purpose was to segregate’” (Chronicle November-December 1976, p. 35).

Methodology

This study documents the process of response in a small northern community to state and national efforts to implement desegregation in the local schools. I analyze the change process and the responses of the interested parties to those changes. The methodology I use is the case study. A single-case study with the philosophical underpinnings of qualitative methodology, ethnographic history, and interpretive and critical analysis was chosen as the methodology. A single-case study was chosen primarily because of the richness and detail provided by such an approach as well as the degree of transferability that can be garnered in assessing similar cases with similar characteristics. I believe a case study's primary significance is its ability to provide an in-depth assessment, evaluation, and interpretation of the historical and current practices and dilemmas of this particular school.

There are several definitions and understandings of the case study. According to Bromley, it is a “systematic inquiry into an event or a set of related events which aims to describe and explain the phenomenon of interest” (quoted in Feagin, Orum & Sjoberg 1991, p.302). A case study is an ideal methodology when an in-depth investigation is needed (Feagin, Orum & Sjoberg, 1991, p. 302.). Case studies are designed to bring out the details from the viewpoint of the participants by using multiple sources of data.
When the procedures developed by Yin, Stake, and others are used, as I do, I follow methods as well developed and tested as any in the scientific field (Tellis 1997, p. 1).

The goal of a case study is to describe as accurately as possible the fullest, most complete description of the case. This methodology can be used as creative alternative to traditional approaches of description, emphasizing the participant’s perspective as being central to the process. One may come to appreciate the subjective richness of participants recounting their experiences and the meaning implicit in them.

Contributions to the case study literature from Yin (1994) and Stake (1995) have informed this work. Yin offers a straightforward protocol approach for case study, emphasizing field procedures, case study questions, and a guide for the final analysis. Stake proposes a series of steps for completing the case method, including posing research questions, gathering data, data analysis and interpretation.

The methodology will follow the recommendation of Yin, using these four stages:

1. Design the case study.
2. Conduct the case study.
3. Analyze the case study evidence.
4. Develop the conclusions, recommendation and implications (Yin 1994, p.35).

This case study involves in-depth interviews with participants and key informants, documents such as letters, court transcripts, newspaper articles, and reports. The validity of the documents is carefully reviewed in order to avoid including incorrect data. One of the most important uses of documents is to corroborate evidence gathered from other sources. “Stake stated that the protocols that are used to ensure accuracy and
alternative explanations are called triangulation. The need for triangulation arises from the ethical need to confirm the validity of the processes. In a case study, this could be done by using multiple sources of data” (Yin 1984, p. 25).

Case study research is not sampling research; therefore, the selection of the case must be carefully done in order to maximize what can be learned in the period of time available for the study. This descriptive case study of school desegregation in the BHASD between 1967 and 1981, may contribute a unique and valuable insight into the participants and the process. It is a frequent criticism of case study research that the results are not widely applicable (Yin 1984, p. 60). Generalization of case study findings is limited to the case itself or similar types of cases. Attention to selected details enhances the analysis and increases clarity of reasoning (Yin 1984, p.62). Stake focuses on context-specific generalization, which depends on the reader’s tacit knowledge. People can make connections and associations without the benefit of words. He believes people have the capacity for this kind of knowledge and from it they build understanding (Stake 1978, p. 78). By describing this case and the relationship of the actors to the process and by focusing the analysis on the major theme which developed, this study may provide important insight into school desegregation in Northern schools.

In this study a major theme emerged as the focal area of analysis. By concentrating on the research questions, I focused on the activity of the BHASD Board during the first years of the desegregation case. In the process of reading the literature about school desegregation, the literature about Brown v. Board of Education, and the
desegregation cases in Michigan, the relationships among the actors in the process of
desegregation became clearer.

Research procedure

The socio-historical analysis of the BHASD Board's decisions focuses on three
specific decisions made between 1967 and 1981. These decisions were (1) The release
of the Sodus School attendance area to Eau Claire Public Schools; (2) Employment
practices; i.e., hiring of and placement of minority staff, 1967-1981; and (3) The use of
school buildings and portable classrooms. Socio-historical analysis was chosen as the
method to research this case because it is an ideal method to convey the many subtle
details of the legal process from a sociological viewpoint and analyze the development of
the case and the desegregation order. There are no easily listed steps to follow in this
method, but I followed accepted socio-historical research techniques.

Research design

This research is within the tradition of the case study method. I present
background information on school desegregation in three perspectives: historical
information, research findings on methods and results of school desegregation, and a
discussion of local Michigan districts which have undergone court-enforced
desegregation. Four research questions discussed earlier in this paper were developed to
provide a focus for socio-historical analysis of the BHASD Board's decisions.

The data groups from which I obtained information are the following:
1. School administrators, representing the views of the school system

   The superintendent of schools for BHASD for the last 10 years was interviewed for more than 4 hours. The person who was superintendent for 10 years at the beginning of the *Berry* case provided a 2-hour interview.

   I interviewed the superintendent of the county intermediate school district who was a defendant in the *Berry* case.

2. School board members, representing the views of the school board and themselves as individuals

   Two members of the BHASD Board during the 1960s and 1970s consented to interviews and provided written statements recalling their views of the desegregation case and the board decisions.

3. Attorneys, representing the views of their client, either a school district or an individual

   I interviewed the attorney who represented BHASD in the *Berry* case for more than 30 years. I also conducted interviews with a lawyer who represented Coloma and one who represented BHASD for two years.

4. Local members of the Twin City Area NAACP (which includes Benton Harbor, Michigan).

   I interviewed a group of members who are active with the Twin City Area NAACP in Benton Harbor. They have been members since the 1960s and provided information about the decision to bring the case to court and the progress of the case from their point of view.
The president of the Twin City Area NAACP was interviewed and provided much of the anecdotal information about the community reaction to the desegregation decisions as well as historical information about the NAACP efforts to integrate the community, particularly during the 1960s and 1970s.

5. Citizens of the community, representing the public attitude

Several people who were residents of Benton Harbor during the 1960s and 1970s volunteered their recollections of the atmosphere of the community during those decades. I spoke with someone who was a black student at the BHASD High School during the 1960s and with someone who was a white student during the 1970s. A white parent told me why he and his wife decided to move their family from Fairplain to St. Joseph in 1971.

I interviewed a former black teacher who taught at the BHASD High School during the 1970s and a white teacher who taught there from 1962 to 2000.

6. Documents: court records, school board minutes, newspaper articles.

I read the court records from the federal district court case and the Sixth Court of Appeals. The BHASD allowed me to read their archival material about the case from 1965 through the 1980s. They have files and scrapbooks which contain newspaper articles and letters about Berry.

The local paper, the Herald Palladium, is available on microfilm. The Herald Palladium allowed me to read the file they have kept on the Berry case.

A former president of the Twin City Area NAACP shared the scrapbook the organization has kept since the 1940s.
CHAPTER III

SEGREGATION AND BENTON HARBOR, MICHIGAN

A brief history of school desegregation cases in the 20th Century and a brief history of Benton Harbor before the 1960s will set the stage for our community study which focuses on the years between 1967 and 1981, the Brown case, and the effect it had on the community of Benton Harbor, Michigan.

History of segregation in schools

According to Vergon (1988, p. 26), the desegregation movement up to 1988 is divisible into four major periods: "the transition to a new standard (1950-1954); massive resistance (1955-1967); meaningful progress (1968-1973); and reassessment and redirection (1974-1986)." Patterson divides the movement into slightly different years, but generally agrees with this historical track of school desegregation (Patterson 2001).

Until the 20th Century there was no consistency in the development of schools in this country. In the urban areas there were schools, mostly for white, affluent boys. Public schools developed in most communities, but attendance was not consistent for students in the rural areas because the children were needed to help on the farms. Some students went to school for only a few years to learn how to read and write and figure, in other words, in order to learn enough to get by in the world. Schooling for the blacks was against the law in the South when there was slavery and the black schools which
were created after the Civil War were poorly staffed, poorly built, and poorly equipped. Most blacks in the North did not go to school at all, and if they did, the school was inferior to the white school and the quality of the education in the black school was poor. In *Plessy* (1896), the Supreme Court found separate but equal facilities for black people were Constitutional, and for more than 50 years that was the standard for facilities in transportation, entertainment, and education (*Plessy v. Ferguson* 163 U.S. 537 [1896]) ("*Plessy*.")

Equal rights remained virtually unattainable. Across the country numerous cases were taken to court between 1849 and 1949 in attempts to gain equal educational facilities. In Kansas alone there were 11 unsuccessful school integration cases between 1881 and 1949. The National Association for the Advancement of Colored People (NAACP), founded in 1908, played a key role in the fight for equal educational opportunity by providing strategy and legal knowledge for using the court system to obtain full constitutional rights for blacks.

The NAACP in the 1920s and 1930s began to use the court system of this country to try to eliminate segregation in schools. The legal team thought that education, particularly graduate school education, would yield the most effective results. The Jim Crow laws were still in effect in the South and all schools were segregated, but *Plessy* had found that separate but equal was legal, so the NAACP sued to have blacks admitted to white state university medical and law schools because there were no separate but equal graduate schools for blacks. One early segregation case was *Sweatt v. Painter*, in which Sweatt wanted to attend the University of Texas Law School. The university set
up another law school for blacks, but a law school cannot be quickly constructed and provided with a library and professors of esteem, so the Supreme Court found in favor of Sweatt in 1950. A slightly different case was *McLaurin v. Oklahoma State Regents for Higher Education* in which Oklahoma State University admitted G. S. McLaurin because the black state colleges did not have comparable programs. The university, however, forced McLaurin to sit in isolated seats in the classrooms, library, and cafeteria. McLaurin argued that this policy was unconstitutional and the Court agreed in a unanimous decision. These two decisions had a substantial impact on later segregation litigation. Chief Justice Vinson wrote in the *Sweatt* case:

"With such a substantial and significant segment of society excluded, we cannot conclude that the education offered [Mr. Sweatt] is substantially equal to that which he would receive if admitted to the University of Texas Law School" (Kluger 1976, p. 276).

Chief Justice Vinson's statement was a triumph for the opponents of segregation. They saw it as an opening wedge which would lead to the end of all segregation in schools in the South. "For, they argued, under this interpretation, it would be utterly impossible for any Negro college or university, no matter how adequately equipped or financed, to provide 'equal' opportunities to the Negro student." This proved to be the pivotal case in later cases, especially *Brown v. Board* in 1954 (Kluger 1976, p.591).

In the 1940s and 1950s local NAACP leaders spearheaded plans to end the practice of "separate but equal." The legal team insisted there be multiple plaintiffs, for
the safety of the plaintiffs and for the good of the case. Five cases in Kansas, Virginia, South Carolina, and Washington, D.C. were all lost at the local level and appealed to the Supreme Court. Thurgood Marshall became the lead attorney, strategist, and counsel for the school integration cases after Charles Hamilton Houston died in 1950. The school desegregation cases joined a case from Topeka, Kansas, and the case is known as Brown v. Board of Education (Brown, F. 1994, p. 3). The previous attempts to obtain equal educational opportunities had lost, but the NAACP in Topeka decided to try once again in the court system to integrate their schools. Thirteen parents agreed to participate on behalf of their 20 children and they each attempted unsuccessfully to enroll their children in a white school close to their house. Parents in four other districts were using the same strategy to attain the same goal.

Kluger presents a comprehensive study of Brown and the blacks' struggle to obtain equal opportunity in education. He documents social, political, and demographic changes between 1900 and 1945 which led to the series of school segregation cases, culminating in Brown. He presents a theory of inevitability in dismantling segregation by describing the individual actors who were willing to endanger their lives for justice for their children and the decline of the Old South during the early 1900s. Kluger states that the time had come for the blacks in the South to unite in their demands and there occurred a fortunate coincidence of graduates from Howard University Law School who were willing and able to try the lawsuits. He suggests that social change requires strong leaders to emerge at the time the members of the community are prepared to follow (Kluger 1976, p.267). He points out that, even though the Supreme Court has been
conservative by nature when viewed over its entire history, there was a change on the court and the successful result of the case depended on individual justices to influence other members of the court (Kluger 1976, p.249). Due to Franklin D. Roosevelt’s appointments, the court was a bit more liberal than usual and reflected Roosevelt’s New Deal politics, including better treatment of blacks.

Within the black community and within the legal community, there were two strategies considered. One was to attempt to obtain equal educational facilities, separate, if necessary. The other was to eliminate the “separate but equal” doctrine and obtain integrated schools. Thurgood Marshall decided to use the second strategy (Tushnet 1987, p.70). Tushnet builds on the thorough history of Brown by Kluger with a more narrow focus of time and subject matter. He disagrees with the opinions of Kluger, Rabin, and the Council of Public Interest Law that Brown was “an unproblematic success: that the campaign was rationally and without fundamental error designed to maximize the chance that the NAACP would win” (Tushnet 1987, p.144). Tushnet writes that this approach overestimates deliberate design as a characteristic of the NAACP campaign. The plan was to destroy constitutional support for segregation, but the contents of the plan changed with some frequency (Tushnet 1987, p.144). The NAACP had several targets for its campaign to eliminate segregation: lynching laws, Jim Crow laws in transportation, and residential segregation by ordinance and private agreement. Its efforts were not systematic or strategic, but were frequently altered to attack targets of opportunity (Tushnet 1987, p.145).
Brown was the culmination of Houston’s educational and legal philosophy. He recommended a plan to educate the community first, including white citizens, on the need to end segregation; target segregation in the schools; and build one case on another leading to a landmark case like Brown. The gift Houston contributed to African Americans was the formation of a vision.

On May 17, 1954, Chief Justice Warren read the unanimous decision of the Court which struck down the “separate but equal” doctrine of Plessy for public education, ruled in favor of the plaintiffs, and required the desegregation of schools across America, ending more than 50 years of de jure segregation in the former Confederate States (Cozzens 1998, p. 1).

The impact of Brown as reported in the literature

Every ten years, at the anniversary of the landmark decision, there are entire journals dedicated to the analysis of Brown and the current status of school integration. Because our focus is the relationship between the BHASD Board and the federal courts, I will note the conclusions of some of those articles as they apply to our study.

A focus of the literature beginning in the mid-1960s is the psychological effect school desegregation has on the students. The Coleman Report (Coleman 1966), an impressive quantitative analysis, presented evidence that was considered a major justification for integrating America’s public schools. Coleman’s conclusion was that the integrated environment was the key to improving the academic performance of disadvantaged blacks. Jencks agreed with Coleman, “(T)he Negro who goes to an all-

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Negro school is given the feeling that he is not able to participate in white institutions, or to act as an equal to whites—or to be a full member of a society which he perceives as a predominantly white society. And therefore, this gives him a sense of inferiority. And, by and large, people who feel they are inferior tend to...become inferior in their attainments” (Wolters 1984, 35). This research builds on the testimony in Brown by Clark, a black psychologist called by the plaintiffs. Dr. Clark, whose experiments with children and dolls which represented either black or white children, provided social science testimony to support the need for school integration in order to provide a positive environment for the black children (Kluger 1976, 315).

Conservative scholars disagreed with Coleman and questioned the basic premise. They thought academic progress depended on the quality of the teachers and the structure of the curriculum, not on interaction among the students (Wolters 1984, 40). Several judges, however, intended to redesign school systems after the fashion of the sociology in vogue among the integrationists of the late 1960s and early 1970s. “That sociology held that blacks would benefit academically and socially, and whites would not suffer, if blacks were dispersed throughout metropolitan regions so that all students attended racially balanced, predominantly white schools” (Wolters 1984, p. 227).

Even though Coleman filed depositions and gave interviews in which he touted the benefits that black children would receive if they were dispersed and educated in predominantly white classrooms, he found very little difference in the average scores made by blacks who attended schools that were mostly black, mostly white, or mixed in various proportions. By the early 1960s the social science research the Supreme Court
had cited in *Brown* had been widely discredited. Advocates of desegregation no longer believed that segregated schools had an adverse effect on the blacks' self-image (Wolters 1984, p. 283).

In the 1970s Coleman conceded that it was mistaken to assume that integration automatically would improve the schoolwork of lower-class black children. The students for his earlier research were volunteers, and not a random selection, and he confessed to "wishful thinking" (Wolters 1984, quoting Coleman, 283). Critics pointed out that Coleman's report was not longitudinal and thus its conclusions might reflect what is known as self-selection bias: blacks and low-income students in racially and economically integrated schools might just be more motivated than those in segregated schools. However, numerous subsequent studies sought to correct for his bias, looking longitudinally at the growth in achievement over time, and confirmed that middle-class schools provide a better educational environment than poverty-concentrated schools (Kahlenberg 2001, p. 3).

Relying on Coleman's research, in 1967 the U.S. Civil Rights Commission issued a report entitled "Racial Isolation," which called for legislation providing that no schools be more than 50% black. The late 1960s and early 1970s saw an explosion in school desegregation as the Supreme Court endorsed busing to desegregate schools. But the moment was short-lived, and in 1974 school desegregation was significantly curtailed by the Court's decision in *Milliken v. Bradley*. Because the Court read *Brown* to apply only to *de jure* segregation, most suburbs were exempt from desegregation orders (Kahlenberg 2001, p. 7).
Coleman renounced his earlier belief that educational benefits would flow to black children in integrated classrooms (Kahlenberg 2001, 285). The research on desegregation does not produce a consensus. The research sponsored by the government does not produce balanced and objective assessments of desegregation. They choose to show that desegregation has worked well or can be made to do so (Kahlenberg 2001, p.285).

Elliott (1987) discusses the controversy and several lawsuits that were filed because of the use of standardized tests to place black students in certain programs. There has been discussion about using the tests for placement and about the cultural bias of the tests. The two tests primarily at issue, WISC-R and Stanford-Binet, were standardized on white samples until their revisions in the 1970s. That fact was noted as an indication of cultural bias. In the 1970s, both new standardizations included blacks in approximate proportion to their representation in the population (Elliott 1987, p. 117).

How can the "black experience pool" be taken into account in the testing process? The black psychologists who were called as experts in the cases discussed by Elliott suggested that it might be better to have blacks test blacks, but they did not push the point, and Sattler and Gordon marshaled the considerable evidence that race of an examiner made little or no difference. State experts, by and large, said that they would not do what the black psychologists did to take account of the black experience -- that is, alter the items (Elliott 1987, p.115).

Criticizing the items on the WISC and WISC-R, chiefly those in the information and comprehension subtests, the plaintiffs in one lawsuit claimed bias. However, there
was never any demonstration of how an undefined black culture had some effect, beyond what could be accounted for by psychosocial factors present in every ethnic group, that militated peculiarly against the learning of such matters as the number of days in the week or the four seasons of the year, to take two information items within the range of low-achieving 8-year-olds (Elliot 1987, p.118).

One plaintiff attorney ambitiously attacked every part of the WISC as biased. Thus, again choosing arithmetic items that are on the difficult side (for example, "Thirty-two is two-thirds of what number?" -- item 13 on the WISC Arithmetic Subtest), he said this: "The problem with the arithmetic test has to do with whether or not a child has been taught these things" (Elliot 1987, p.120). That is unarguably true, and it also has to do with whether a child has learned these things. The average test age equivalent of that item is more than 15 years, and so success is likely a result of what is taught and learned in school. No showing was made that either black culture or racism make arithmetic either more poorly taught to or harder to learn by blacks (Elliot 1987, 120).

In fact, it is almost a universal finding in the field of ability testing that the black-white difference in America exists at every age examined from preschool onward. The following authors reached that conclusion and are noted in Elliott (Elliott 1987, 140): Loehlin, Lindzey, and Spuhler, 1975; Jensen, 1980; Reynolds, 1983; Coleman et al., 1966; Reschley and Sabers, 1979; Oakland, 1978; Hall and Kaye, 1980. Not only is there a difference, but it is found on every variety of test of mental ability and their criteria, as Elliott notes when he mentions Jensen, 1980; Hunter, Schmidt, and
Raushenberger, 1984; Klitgaard, 1985; Manning and Jackson, 1984; and Wigdor and Garner, 1982 (Elliot 1987, 140).

Blacks fought the tests, alleging that they did not tap innate capacity; that they were culturally biased against blacks; that intelligence could scarcely be defined or, if it could, there was little consensus in the definitions; and that test scores systematically underestimated and under predicted black performance on various criteria. (Elliot 1987, p.142).

By the turn of the decade, 1969-1970, the issues of black intellectual competence, the fairness of some of the tests purporting to measure it, and the fairness of the educational system to black children were very controversial, and there was a great deal of political and legal support for the black positions on them. In 1969, at the American Psychological Association (APA) meeting in Washington, D.C., the Association of Black Psychologists was formed, and high on its agenda was a call for a moratorium on the IQ, achievement, and ability testing of blacks, because, among other alleged effects, these tests improperly classified black children (Elliot 1987, p.10).

In the BHASD desegregation case, Robert L. Green, dean of the College of Urban Development at Michigan State University, testified that segregated schools tend to make black students feel “unworthy” and give white children “an unrealistic sense of their own worth” (MacIntyre, “Benton Harbor school trial...” 5-17-78 p. 1). As an expert witness and editor of School Desegregation: Making it Work (Green 1976), Green said studies showed that educational achievement is not harmed when a school district undergoes desegregation. He said achievement of white students remains the same while
achievement of black students often increases (MacIntyre, “Benton Harbor school trial...” 5-17-78, p.1).

Impact of Brown on the courts

In addition to the impact the Brown case had on education and on society, the impact on the courts was substantial. Critics of the court such as Max Boot (Boot 1998) believe the purpose of the court is to interpret the Constitution, not legislate, as he thinks the court did in Brown (Boot 1998, p. 126).

“How did judges get the power to tell elected officials, ‘I’m going to implement this policy whether you like it or not’? As with all modern judicial activism, the answer comes back, ineluctably, to Brown v. Board of Education. Prior to 1954, judges rarely used decrees to implement controversial policies. They were forced either to rely on the executive branch to implement their decisions or not see them implemented at all. All that changed with Brown v. Board of Education II, the 1955 Supreme Court decision that authorized federal courts to enforce the desegregation mandate of Brown v. Board of Education I, issued a year earlier. Chief Justice Earl Warren made a bow toward local sensibilities, declaring that ‘school authorities have the primary responsibility for elucidating, assessing, and solving’ the problems of desegregation. But he

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added: 'During this period of transition, the courts will retain jurisdiction of these cases'” (Boot 1998, p.126).

When the federal court system and the federal executive branch of government began to enforce the Brown decision in the southern states, the President ordered the National Guard to enforce the law. Some of the governors and other elected officials representing the individual states publicly announced they would not obey the law which required desegregation in the public schools. There were incidents between armed troops and white students and their parents. There were conflicts between the governors and the National Guard. Eventually, the black students were allowed to attend the white schools within their school district (Kluger 1976, p.610).

When the attention of the federal courts turned to western and northern states, they found segregation in the public schools. It was not de jure segregation, sanctioned or required by the state laws, but de facto segregation. The elected officials responsible for providing equal educational opportunity for all students were not doing so. The federal courts, therefore, took responsibility once again for bringing equal education to all students, because the state had ignored its responsibility in that area. Each desegregation case is brought against a local school board and/or local administrators. In several cases we discuss the defendants include the governor of the state, the state superintendent of education, and the state board of education. These are the elected state officials who are ultimately responsible for the local schools. They are the state officials upon whom the local boards depend for guidance, support, and interpretation of local problems. When they fail to offer these things, the federal court takes control of the
situation (Kluger 1976, p.126). The court jurisdiction was necessary because of the resistance and entrenched white hostility toward the rulings. The whites, especially in the South had responded intensely, sometimes violently, to these rulings, and the judges were compelled to retain jurisdiction in order to retain control of the situation. Local enforcement was unreliable or absent, and the judges had the force of the federal government behind them if necessary.

Chief Justice Warren said the courts may consider problems related to administration, arising from the physical condition of the school plant, the school transportation system, personnel, revision of school districts and attendance areas into compact units to achieve a system of determining admission to the public schools on a nonracial basis, and revision of local laws and regulations which may be necessary in solving any of the aforementioned problems (Kluger 1976, p.128).

In 1970, when most of the *de jure* segregation cases had been judged, the courts began a course to end *de facto*, nonlegal barriers to segregation that had been caused primarily by the voluntary housing choices made by individuals. Many judges seemed to believe that all-black schools are inherently inferior, a theory buttressed by the dubious social science research cited in *Brown I* about the "psychological" harm suffered by black children under segregation. "Under this theory," writes Justice Clarence Thomas, "segregation injures blacks because blacks, when left on their own, cannot achieve. To my way of thinking, that conclusion is the result of a jurisprudence based upon a theory of black inferiority (Kluger 1976, p.130)."
In the 1990s, the Supreme Court made it easier to phase out court oversight of
schools, and some desegregation plans are indeed disappearing. Many other
desegregation plans, affecting hundreds of school districts, many of them mandating
busing, remain in effect. Benton Harbor’s case, began in 1967 and was in effect until
June 2002. During those 35 years, three federal district judges were involved in this case
and the last two judges had long-term supervisory relationships with the school districts
and the school boards. These types of relationships give judges additional power and
responsibility to the public.

“Judges are enforcing not the law but a ‘distinctive public
morality’ that requires them to impose their own values upon
bureaucrats and, by extension, their bosses, the elected officials.
This is a long and seemingly never-ending task: ‘A long-term
supervisory relationship develops between the judge and the
institution, for performance must be monitored, and new strategies
devised for making certain that the operation of the organization is
kept within constitutional bounds’” (Kluger 1976, p.132).
The judicial system felt it was necessary to retain control so the white resistance would
not prevent school integration from being accomplished.

The resistance to the Brown decision was intense and varied. The whites who
resisted the decision tried numerous ways to avoid desegregation of the schools. They
closed the public schools in at least one city; they created private whites-only schools;
they refused the enrollment and the attendance of the black students in the white school;
and they harassed and attacked the black students who attempted to attend the white schools. They tried to bankrupt the public schools by eliminating public financial support of the schools. The courts were forced to hold strong to the Brown decision and enforce the law of the land. If they had wavered at all, there would have been no one to enforce desegregation. The governors of some states, the local law enforcement officers, and the local white leaders had shown that they were not going to enforce the law. This reaction left the burden of enforcement to the Federal District judges (Kluger 1976, p.712).

Posner writes that adjudication is not all about restraint. He points out that Brown is an “activist decision” (Posner 1996, p.336), which is sometimes necessary if legislators and the public choose the immoral road. The federal judges, appointed for life and not subject to election, have the freedom to lead the public rather than reflect the public opinion. There is no consensus whether that is the correct role of the judges. Lyles points out the importance of the federal district judges to the judicial process. They decide more than 230,000 civil cases annually and the decisions they reach are final about 90 percent of the time (Lyles 1997, p. 4). These courts have wide discretion when they receive a case from the Supreme Court “for further consideration.” We cannot overlook the role of these judges in the formulation and implementation of public policy (Lyles 1997, p.4). They function at the very heart of social controversy and how they handle issues like school desegregation affects the nature and quality of our everyday lives.
The influence of the Black Nationalist Movement on segregation

The Black Nationalist Movement, Black Power Movement, and the Afrocentric Movement were particularly popular among black people during the late 1960s just as the Benton Harbor segregation case was being filed. The influence of the Black Nationalism, as originally promoted by Marcus Mosiah Garvey in the early twentieth century, can be found in the ideological formation of the Nation of Islam (NOI) in the 1930s (Essien-Udon 1962, p. 18). Garvey founded the Universal Negro Improvement Association (UNIA) as a better alternative for black people than interracial organizations such as the NAACP and the National Urban League. He believed separation of the races was the best chance for blacks to realize their full potential as human beings culturally, socially, politically, and economically. Garvey’s socio-political philosophy of Black Nationalism emphasized cultural pride, social separation, and economic empowerment.

During the early 1960s Malcolm X, an advocate for improving African American life, began to question the Nation of Islam’s role in improving the conditions of African Americans. His views were influenced by the action oriented organizations of the Civil Rights Movement (Goldman 1979, p.115). His emphasis on racial pride, political and economic self-determination, proved to be a powerful message for African Americans during the 1960s. Many grassroots organizations of the late 1960s used Nationalist philosophy advocated by Garvey and Malcolm X to address problems of poverty, inadequate housing, and police brutality to take ownership of their communities through collective social action (Karenga 1994, p.175).
Martin Delaney sums up the major theme in the (Black) Nationalist credo when he says that 'every people should be the originators of their own schemes, and creators of the events that lead to their destiny' (McCartney, 1992: 16 quoted in Smallwood 1996, p.1). He continues that since African-Americans are a minority in this country, where many and almost insurmountable obstacles present themselves a separate Black Nation is necessary in the march to self-determination (Smallwood 1996, p. 1). Delaney said:

"The main event intellectually for blacks seems to be ethnic and cultural identity, not the tensions between rich and poor, government and business, or labor and capital. To some extent it was ever thus. But black America traditionally was a thing unto itself, mostly poor and almost completely segregated. Its internal debates didn't matter to whites. The never-ending argument over black identity continues on its own terms, not the outside world's-only now it will probably have a growing effect on the outside world" (Lemann 1993, p.33).

It is hard to find any Afrocentrist material in which the urge to improve the image of blackness among blacks is not detectable. Molefi Asante has recently been distancing Afrocentrism from the extreme wing of academic Black Nationalism. Asante made a point of not criticizing whites as a group; instead, he sketched out a picture of a pluralistic society in which no group would be "hegemonic" and each would be "centered" in its own heritage: "Whites shouldn't have to wear Mandinka clothes, and I shouldn't have to wear English suits (Lemann 1993, p.34)."
Nationalism and assimilation are now linked, not opposing, forces. Few nationalists ask their followers not to join the mainstream economy. And many assimilationists see a need to shore up black identity. Henry Louis Gates Jr., the chairman of the Afro-American Studies Department at Harvard, a critic of Black Nationalism, said, "What I want to see happen is black people with a strong social conscience learning to function through and in the center of American society" (Lemann 1993, p.42).

Black scholars have generally identified two tendencies of African Americans seeking their full potential in society: integration and full participation as U.S. citizens and Nationalism, where blacks would be independent from society, either physically, culturally or psychologically, emphasizing collective action of blacks based on shared heritage and common concerns (Smallwood 1996, p.1).

Black nationalism has been an alternative to integration for more than one hundred years. When school desegregation became a controversial social movement after the Brown case, black people had a choice of philosophies: nationalism or integration.

While some groups and individuals within the civil rights movement advocated Black Power, black separatism, or even armed resistance, the majority of participants remained committed to the principles of nonviolence -- a deliberate decision by an oppressed minority to abstain from violence for political gain. The commitment to nonviolence gave the civil rights movement great moral authority. Using nonviolent strategies, civil rights activists took advantage of emerging national network-news reporting, especially television, to capture national attention and the attention of
Congress and the White House. Americans watched the live footage of violent unrest at Little Rock High School as whites rioted to prevent nine black students from entering the school. Radio, television, and print journalism exhaustively covered such 1960s events as police dogs attacking children in Birmingham, former sharecropper Fannie Lou Hammer describing her jail beatings to delegates at the 1964 Democratic National Convention, and a mounted posse charging "Bloody Sunday" demonstrators in Selma, Alabama (Philogene 1999, p. 33).

Inspired by the Civil Rights Movement and Black Nationalism, blacks in Benton Harbor became more politically active in the 1960s. Young people were inspired and encouraged by the display of resistance and courage by black students they saw on television and in the newspapers. They adopted the styles and fashions of the activists and became more vocal about their demands for equal treatment. By looking at yearbooks and newspaper records from 1965 to 1975, I found black students elected to school leadership positions for the first time, and they formed new organizations for black students (see Greybrick, the Benton Harbor High School Yearbook, from various years).

Benton Harbor prior to the Brown decision

Population

In order to understand Benton Harbor in the 1960s I am going to concentrate on the demographic data for the period from the close of World War II until the late 1950s.
Michigan experienced a period of very rapid population growth during the 1950s. Table 2, Population Increase, United States, East North Central States, and Michigan, by Decade 1850-1958 found at http://www.questia.com indicates that in July, 1958, the state's population as estimated by the Bureau of the Census amounted to almost 7.9 million persons. Comparison of census data reveals 1.5 million more persons living in Michigan in 1958 than in 1950, a gain of almost 25 percent in eight years. This is a substantial rate of growth. It means adding to Michigan's population base during the eight-year period a number of persons equal to the 1950 population of two of the New England states-Maine and New Hampshire (Haber 1959, p. 67). As Table 2, Population Increase, United States, East North Central States, and Michigan, by Decade 1850-1958 found at http://www.questia.com shows, Michigan had been a rapidly growing state over a long period of time. Starting with the decade ending in 1890, the state's population increased from 15 to 30 percent during each 10-year period except for the depression decade of the thirties. In every decade except the two between 1890 and 1910, Michigan's population has increased more rapidly than that of the nation generally (Haber 1959, p. 67).

Michigan's population growth has been more rapid than that of its neighboring states, considered both individually and collectively (see Appendix Table I, Population Increase, United States, East North Central States, and Michigan, by Year 1950-1958 found at http://www.questia.com). The table shows that between 1950 and 1958, Michigan's population increased 23.5%, while Ohio, which was the second fastest growing state in the East North Central States, grew 17.6%. The third state in percentage
growth was Indiana was 16.4%. The average growth per state of the five states in this area was 17.2%.

Table 3, Percentage Increase in Population for States Having Percentage Increases Greater than National Average 1950-58, found at http://www.questia.com, indicates Michigan ranked tenth among the states in rate of growth between 1950 and 1958. If one looks at the states ranked above Michigan, it is clear that except for California, all the states experiencing a higher percentage increase in population growth in the 1950s had a smaller population in absolute terms. Michigan was one of the most populous states in the country. One author wrote that the main reason for the immigration of so many people to Michigan was the generous social welfare system the state provided and not the opportunity for employment (Haber 1959, p. 67).

Benton Harbor’s population followed the same pattern as Michigan’s. In Table 7, Population of Counties, by Minor Civil Divisions 1940 to 1960, found at http://www.questia.com, the city’s population in 1940 was 16,668 and in 1960 was more than 19,136. The population of the areas which fed students into the high school grew faster. Benton Township, for example, grew from 8,105 in 1940 to almost 20,000 in 1960. Areas surrounding the city of Benton Harbor grew as subdivisions were built on land which previously was orchards. Fairplain was not a charter township and no record of its population in 1940 is available, and it had a population of almost 8,000 in 1960. Part of Fairplain is in Benton Township and part is in St. Joseph Township. The following townships, in addition to Benton Harbor city, sent their students to Benton Harbor High School: Bainbridge, Benton, Hager, Royalton, St. Joseph, Sodus.
Chester Walker graduated from Benton Harbor High School in 1958 and had a successful career in the National Basketball Association. He wrote a memoir *Long Time Coming: A Black Athlete's Coming-of-Age in America* (Walker C., 1995) in which he describes his experiences as an adolescent in Benton Harbor, having moved from Mississippi in 1950 "as part of the Great Migration" (Walker, C. 1995, p.14). The lure which attracted the people from the South was factory jobs offering good wages, but "the greatest promise of all for southern blacks was to move out of deeply entrenched segregation and into a new freedom of opportunity" (Walker, C., 1995, p.14). He lived with his mother in the black projects on the east side of town. He writes:

"The projects themselves, although isolated racially and ethnically in all the ways that are known to be detrimental, were stable. I think that the southerners who came to a town such as Benton Harbor re-created a sort of village atmosphere, like a small hamlet or southern crossroads community. . . . We were homogeneous racially, in our roots, in our religion, and in our dreams. Yes, we were segregated and knew it, but we had a lot going for us in the 1950s (Walker, C. 1995, p.22). . . . We all had chances but not equal rights, and we were thankful for these opportunities. They were a start" (Walker, C. 1995, p.25).

As Walker grew up, he did not have vast horizons, but he was comfortable in his town. "There was no rising black middle class that I knew about as a kid. Then again I didn't feel I was a member of the underclass or that I'd been left behind" (Walker, C. 1995, p. 25).
In high school, as a sports celebrity of sorts, he found he was a curiosity to the white students, who were interested in what the black students brought from the other side of town—the clothes, the language, the music. The black and white students did not have much social contact. Walker feels the black students were not encouraged to achieve high academic goals and were allowed to just get by (Walker, C. 1995, p.35). The most important lesson he learned, he repeats in his book, is “Never trust the white man... never” (Walker, C. 1995, p.35). His attitude about anger may be common among the young black men of his age. He never entirely trusted organized religion because it transformed too much anger and hatred into resignation. “It’s like Malcolm X said of Dr. King: he had great respect for a man who would tie his own hands and walk out into a violent and dangerous world without the ability to fight back. Malcolm said he respected the view all the more because he didn’t understand it” (Walker, C., 1995, p.53).

Residential areas

The table, Population Trends, from 1977 Defense Exhibit, shows the increase in population in the Benton Harbor-St. Joseph area from 1890 to 1970. The population grew rapidly until 1960, then began to decrease. The white population of Benton Harbor began to decrease in 1940 as the non-white population increased. Within the city of Benton Harbor the most rapid growth in population was in non-white people less than 25 years old (refer to 1977 Defense Exhibit tables Non-White Age Distribution 1950, 1960, 1970 and Age Distribution White Population 1950, 1970 and Population Trends in 1930,
The table, Population Trends from 1977 Defense Exhibit, indicates that 1960 was the peak of population in Benton Harbor and each census since then has seen a decrease in that number. The white population decreases from 14,290 in 1960 to 6,707 in 1970. There was more than a 50 percent decrease in the white population in those ten years. The non-white population more than doubled in ten years, from 4,846 in 1960 to 9,774 in 1970.

The table, Concentration of Black Population in Berrien County, from US Department of Commerce, Social and Economic Statistics Administration, Bureau of Census, May 1975, shows that in 1970 the largest concentration of blacks was in Benton Harbor and Benton Township with 79.1 percent of the total black population of Berrien County. The townships which sent students to Benton Harbor High School were Bainbridge, Benton, Hager, Royalton, St. Joseph, and Sodus. Benton Township’s population was estimated to be 24.2% black in July 1973 and Sodus Township was 17.3% black. The other townships each had less than 1.5 % black population. I will discuss the residential housing patterns later in this chapter.

Schools

The table, Benton Harbor Area School Buildings from the 1977 Defense Exhibit, indicates the year of construction of each school in the consolidated Benton Harbor school system and its use in 1977, the year the district court held the trial to determine the remedy for the BHASD desegregation case. Most of the buildings built before 1950 are located within the city limits of Benton Harbor and have a majority black population.
in 1965 after consolidation. This is the information the board had in front of it as it decided how or if it should redraw the attendance areas for the individual schools. It is apparent that there is a need for new buildings and the board must decide where to build those buildings and for what purpose they will be used. The BHASD had the policy of "neighborhood schools" in that they designated attendance areas in order to secure equitable distribution in enrollment and to recognize the neighborhood community as an important factor in the school-community relationship. Such attendance areas could be altered or adjusted as circumstances required (Fox 1973, p. 45). Throughout the years the Berry case was in court the Benton Harbor Board of Education had the option of voluntarily transferring black students into white schools and redrawing the attendance areas. They never took that option, but stayed with the defense that they believed in neighborhood schools.

Wages

Table A-2, Average Weekly Earnings, Average Weekly Hours, and Average Hourly Earnings in Manufacturing Industries, Selected Michigan Labor Market Areas September and October, 1958, found at http://www.questia.com, shows that the average weekly earnings in manufacturing industries in Benton Harbor in October 1958 were $90.78, working an average of 42.9 hours per week at an average of $2.14 per hour. This gives a rough index of wage rates which may be affected by overtime wages rates, part-time earnings, and the length of the work week. From this information, it is clear that average weekly earnings of production workers in manufacturing in Michigan are the
highest in the nation. Economic conditions for workers in Benton Harbor, Michigan, were excellent during the late 1950s and attracted a large number of unskilled workers (Haber 1959, p. 258).

**Labor force and unemployment**

Table 8, All Wage and Salary Workers in Manufacturing and Defense Workers, Michigan, Outstate Michigan 1952-1957, found at http://www.questia.com, shows that in 1950 there were over 2.6 million in the total labor force of Michigan, with 4.0% unemployed, and over half the manufacturing jobs in Michigan during the 1950s were in the Detroit area. The lowest unemployment of the 1950s was in 1953 when only 2.7% were unemployed.

**Michigan as a state**

Over the years the population of Michigan has grown significantly more than that of the nation because of the large number of persons who have moved into the state. In spite of periods of substantial unemployment, job opportunities in the state generally have been so abundant and so lucrative that persons from others states have moved to Michigan year after year.

Appendix Table XI, Production Workers in Motor Vehicles and Equipment Industry, United States, East North Central States, and Michigana Selected Years, 1899-1954, found at http://www.questia.com, indicates that during the 1930s Michigan accounted for from 62 to 64 percent of all production workers in the automotive industry.
as compared with about 54 percent in 1947 and 51 percent in 1954. The decline in percentage of the automotive industry jobs has continued as manufacturers moved to other states and countries.

Haber points out that the best years for the economy of Michigan were the years of World War II and through the Korean Conflict because Michigan had many defense-related industries. Beginning with the recession of 1954 and the decline in those industries, there has been a steady decline in jobs in Michigan (Haber 1959, p. 59). The jobs that were available in factories and foundries in Benton Harbor disappeared beginning in 1960 when the factories and foundries closed or moved.

Early history

Michigan was the center of anti-slavery agitation and it provided safe houses on the Underground Railroad, which many slaves used to get to Canada (Walker, L. 2001, p. 31). The migration of blacks from the South continued from the 19th into the 20th Century because Michigan had cheap land and was suitable for the agricultural life to which the southern blacks were accustomed. By the mid 19th Century there were several small black enclaves within 50 miles of Benton Harbor. Quakers and others helped fugitive slaves settle in Cass County. These blacks were free, but they enjoyed no vote, no membership in juries, and were not allowed to attend the white schools (Glazier and Cousins 2001, p. 18). The first great northern migration to Michigan took place between 1917 and 1920. The industrialization and urbanization of the population provided
industrial jobs for the black immigrants. Between 1910 and 1920, the black population in Michigan grew from 17,000 to 60,000, and by 1930 to 170,000.

The population in Benton Harbor reached its peak in 1960 (refer to Population Trends table, 1977 Defense Exhibit), when the census reported 19,000 in the city. The non-white population was reported as about 34%. The farmers who settled there followed the Pottawattomie Indians and the pioneers of early history, and many German names were on farm mailboxes (Ensign 1880, p.127). The economy depended on agriculture as it had since the 1860s when the first peaches from Benton Harbor were sent by steamboat to Chicago. Five steamboats came up the canal to Benton Harbor every day to receive their loads of peaches for delivery 63 miles across Lake Michigan (Pender 1915, p.5). Fortunes were made in peaches as the local orchards produced early and late varieties in abundance (Pender 1915, p.11).

Benton Harbor was organized as a township in 1837, soon after Michigan became a state. The increase in population and wealth was slow for several years because the sandy soil along the lake was regarded as unproductive and almost unfit for civilization. In 1841 the first bushel of peaches was sold (Pender 1915, p.145). The city of Benton Harbor received a charter in 1891.

How Brown led to events in Benton Harbor

After the Brown decision, the focus of school desegregation and the courts was in the southern schools, and the country watched the tactics used by districts to avoid desegregation. In addition to closing schools (Wilkinson 1979, p.83), districts passed
pupil placement laws, choice plans for black students who requested enrollment in white schools, and paid tuition to private schools for white students. The Supreme Court's prolonged patience with tokenism was perhaps its greatest mistake (Wilkinson 1979, p.86). The court failed to provide the leadership and direction to the southern school crisis. The historic eleven-page decision in Brown left many questions. For a decade after Brown the court did almost nothing (Wilkinson 1979, p.126). The initial force to dismantle state sanctioned segregation was in southern schools. In October 1972, the court heard its first “Northern and Western” case: Keyes v. School District No. 1 in Denver, Colorado. The North and West had been given a reprieve during the 1970s, but now the court was expanding its view of segregation (Wilkinson 1979, p.195).

In 1965 sixteen K-8 school districts consolidated to form the Benton Harbor Area Schools. Two more districts were soon annexed. Benton Harbor High School was the only public high school in the district. Consolidation occurred under the impetus of a (then) recently enacted Michigan statute which made it desirable for independent districts, not providing high school education, to consolidate with districts providing the full range of K-12 classes. “An additional purpose of consolidation was to remedy the containment of Black students in the Benton Harbor city schools, and prevent the schools within the city limits of Benton Harbor from becoming all Black” (Berry 442 F. Supp. 1280, 1326 [1977]) (“Berry 1977 Opinion”). As the black population of the city of Benton Harbor increased during the 1960s people in the outlying areas and townships were talking of forming new school districts of their own. Eventually seven of the outlying areas applied to be released from the Benton Harbor district to form their own
districts, claiming the desire to have neighborhood schools. They claimed they had voted for consolidation because the Benton Harbor district had promised to build a new junior high school and relieve the overcrowding at the current high school. That building was never built. Benton Harbor city is only four square miles and the high school has many feeder schools. In 1966, 37.3% of the school population was black (Berry, 515 F Supp 344, 347 [1981]) ("Berry 1981 Opinion"). Obtaining a positive vote to consolidate was difficult. Each surrounding school district was required to pass the proposal and the city was required to pass the proposal. There were promises made which could not be kept. For example, school board members said they would not close small neighborhood schools, and they would build a new junior high school in the district. The voters approved the proposal (interview with a former superintendent).

At the time of consolidation only two of the twenty-nine schools in the new district, Hull and Stump Nickerson, were racially unidentifiable—the remaining 27 schools were racially identifiable as black schools or as white schools. Additionally, in the 1966-67 school year, 55.41% of the black elementary and junior high students attended schools that were 75-100 percent black. At the same time, 67.06% of the white elementary and junior high students attended schools that were 75-100 % white (Berry 1977 Opinion, 1300). The schools of the post-consolidation district were racially identifiable not only on the basis of student population. They were also racially identifiable upon the basis of the racial makeup of the faculty, building administrators and staff, physical facilities, and recreational areas (Berry 1977 Opinion, 1300-1306).
The racial composition of the schools in the consolidated system largely reflected the long-standing pattern of segregated housing in the Benton Harbor-St. Joseph area. As late as 1956, public housing in the City of Benton Harbor was segregated upon the basis of race. In *Askew v. Benton Harbor Housing Commission*, C.A. 2512 (W.D. Mich. 1956), Judge Kent, relying upon *Brown v Board of Education*, “found that the defendants unlawfully discriminated against Blacks by operating one housing project for Blacks and another for Whites” (*Berry 1977 Opinion* 1298, fn 32).

The Fair Avenue housing project constructed with federal money in early 1952 was located on the border between the then (before consolidation in 1965) Benton Harbor School District and Bard School District. The 65 black elementary students were refused entry at the beginning of the 1952-53 school year at both Bard and Seely McCord School—the closest city school. After one week passed without school, the children were finally admitted to the Bard school. At that time Bard School was approximately 40 percent black and Seely McCord School was approximately 10 percent black. “Although part of the motive over refusal to enroll was based upon a dispute over the implications of state annexation law, the inference is reasonable that the dispute would not have occurred except for the fact that neither district wished to have the additional 65 Black students in their district” (*Berry 1977 Opinion* 1298).

“The second instance, the Superintendent of the Bard District, in a letter to the Benton Harbor Housing Commission, approved the construction of a 200 unit, low-rent housing project within his district in 1960. Although the Bard School was already seriously overcrowded, and the new project would add an estimated 140 students to the
school, [the Superintendent] was not concerned because of a planned bond proposal to add eight rooms to the school. The additional rooms were never built. The natural, probable, foreseeable and actual result of this approval of construction of a housing project which would be inhabited by Black residents was to increase the segregation of the school that was already in excess of 80 percent black” (Berry 1977 Opinion 1298-1299).

“To say the least, defendant BHASD was racially segregated from the start [in 1965]. However, with the exception of the above incidents, there is a paucity of evidence that the predecessor districts were the products of intentional segregative acts. This does not mean that such was not the case. Defendant school district claimed that the predecessor school district failed to keep the appropriate racial records. The adverse inference . . . is that these records . . . would have shown that those districts were intentionally segregated and that the consolidated board was aware of those circumstances” (Berry 1977 Opinion 1299).

Mary DeFoe, President of the Twin City NAACP, in May 1967 (six months before filing the suit against BHASD) turned over to the board a thorough study by a professor at Michigan State University of the racial problems in the BHASD schools. The report “detailed the severe educational and psychological impact segregated conditions have upon Black students. It also focused on student and faculty racial imbalance in Benton Harbor and the ‘lag’ of Black students on achievement tests” (Berry 1977 Opinion 1327-1328).
"As the district's problems began to mount in the late 1960s, and the percentage of Black students continued to increase, residents of the outlying, White areas began to regret their earlier decision to join the consolidated school district. There were some individual and small group requests to transfer their properties to the Coloma Community School District or to the Eau Claire School District. These requests were generally opposed by the Benton Harbor Board and not approved by the Berrien County Intermediate School District (BCISD). Despite this BHASD opposition, the State Board of Education (SBE) on July 2, 1970, reversed the decision of the BCISD and, rejecting the recommendation of its own hearing officer and the State Superintendent of Public Education, John Porter, approved the transfer of the Eaman area to the Coloma school district. The Benton Harbor Board appealed for a rehearing, but the SBE, again rejecting the recommendation of its hearing officer, reaffirmed its decision to permit the transfer to Coloma" (Berry 1977 Opinion 1328-1329).

"Throughout this period of time, the Board was kept on notice by public statements of the Twin City Area NAACP, the Mayor of Benton Harbor, the Benton Harbor City Commission, the Benton Harbor/Benton Township Housing Commission, and the Township of Benton that the transfer attempts and redistricting plans were transparent attempts to establish segregated school districts out of the BHASD (Berry 1977 Opinion 1334).

"The impact this decision had on the defendant district was summarized in a January 26, 1971 communication from the BHASD to the SBE asking the State Board to 'make public its position
relative to requests for transfers of properties' from BHASD to contiguous districts. The communication stated in part:

'The Board of Education of the Benton Harbor Area Schools made every attempt to inform the State Board of the precedent setting nature of such a decision, the harmful affects on the maintenance of racial balance, and the impact on the far reaching and exciting plans to improve the curriculum and physical plant of the District through implementation of at least part of a comprehensive study of the District conducted by the firm of Engelhardt and Engelhardt. Though communication was attempted by telephone, telegram and letters, all efforts to reach the State Board were rebuffed.

B. Subsequent to the Eaman decision, the Berrien Intermediate Board has been presented with petitions signed by some 1,600 persons in the St. Joseph Township portion of the District (Fair Plain Area) for transfer of their property to the St. Joseph School District. This is almost
an all white area seeking transfer to a nearly all white school district.

C. Property owners in Pipestone Township filed for transfer but withdrew so that they could join a petition drive being conducted in Sodus Township for transfer to the Eau Claire District. Again, this is a predominantly white area asking for transfer to a predominantly white school district.

D. Widely circulated newspaper and radio accounts describe the petition campaign in Sodus Township for transfer to Eau Claire. The leader is quoted as saying, among other things, 'We feel the Intermediate District Board must take the new thinking of the State Board of Education on transfers — as shown in the Eaman case — into account when it considers our petition.'

Word has come of the circulation of transfer petitions in two other 'white' areas of the District as well.

E. Consolidation studies, subsequent study by a school district building planning committee, and
the aforementioned Engelhardt Study, all pointed up the need for new secondary school spaces. This Board had reserved the date of March 8, 1971, as a time for a vote on a building program.

After word of the Fair Plain transfer move was received the Board, after careful consideration, decided not to proceed with a March election on a bond proposal.

F. It is obvious to this Board that racial tensions in the community have been increased by the proposed transfer of whites from the District.

How much these transfer requests have contributed toward the outbursts by black students at Benton Harbor High School on the morning of January 15, 1971, is pure speculation; however, the State Board should be aware that several thousands of dollars damage was incurred in what has been described as a planned mob action by black students at that institution.

The School District and the community are
suffering in the aftermath of this event and the
races are polarized as never before.

IV. Conclusions

The Benton Harbor Board of Education is seeking
direction in the matter of coming to grips with
the problems at hand. How can we plan effectively
not knowing what the boundaries of the District
might be six months hence and all that this
uncertainty implies; the number of students to be
served, the valuation of the District, school
buildings available, bus routes to operate,
personnel to employ, supplies and equipment to
order, ad infinitum?

It is our belief that it is imperative that the
State Board of Education make known its position
with regard to transfer requests which may come
before it from the residents of this District and
essentially what its position will be on the
maintenance of racial balance within the school
district.

If transfers are permitted it is clear that
Benton Harbor City, the majority of whose
inhabitants are black, and the adjacent land
areas where blacks are in the majority, will
comprise the Benton Harbor Area School District.”
(Berry 1977 Opinion 1329-1330).

“De jure segregation may be based on action taken, coupled with omission made,
by governmental authorities which have the natural and foreseeable consequence of
causing educational segregation. . . . When we consider the motivation of people
constituting a school board (or State Board of Education), the task would be even harder,
for we are dealing with a collective will” (Berry 1977 Opinion 1293, quoting Hart v
Community School Board of Education, N.Y. School District, No. 21, 512 F 2d 37, 50 [2nd
Cir, 1975]).

“Frequently the most probative evidence of intent will be objective evidence of
what actually happened rather than evidence describing the subjective state of mind of
the actor. For normally the actor is presumed to have the intended and the natural
consequences of his deeds. This is particularly true in the case of governmental action
which is frequently the product of compromise, of collective decision making, of mixed
motivation” (Berry 1977 Opinion 1294, quoting Washington v Davis, Justice Stevens
concurring opinion, 426 U.S. 229, 253, 96 S. Ct. 2040, 48 L. Ed. 2d 597 [1976]).

“A presumption of segregative intent arises when the plaintiffs establish that the
natural, probable and foreseeable result of public officials’ action or inaction was an
increase or perpetuation of public school segregation. “The presumption becomes proof
unless defendants affirmatively establish that their action or inaction was a consistent
and resolute application of racially neutral policies” (Berry 1977 Opinion 1294-1295). The SBE, therefore, was found to have taken action which increased and perpetuated the segregation in the BHASD. The BHASD had opposed that action. Eventually seven of the outlying areas applied to be released from the BHASD to form their own districts, claiming the desire to have neighborhood schools.

The phenomena of white flight increased immediately after the consolidation in 1965. Coleman showed that substantial “white flight” was motivated by resistance to school integration in the public schools. In general, the first year after court-ordered school desegregation took place the “white flight” from a city school district to suburban white districts is four times what one would expect under normal circumstances (Coleman 1975, 76). Census figures (Refer to Population Trends table and Age Distribution table, 1977 Defense Exhibit) indicate that the white population of Benton Harbor dropped from more than 14,000 in 1960 to less than 7,000 in 1970. Many of the families who left had school-aged children. The white population increased in the area immediately surrounding Benton Harbor during the 1960s (refer to Table 7, Population of Counties by Minor Civil Divisions: 1940 to 1960, found at http://ww.questia.com). The whites who move often blame lower property values, the loss of neighborhood schools, and poor academic performance in black schools as the reason they move (Hart 2003, p. 2). As I mentioned earlier, during the decade of the 1960s there were other factors which contributed to the decline in the white population, including the loss of employment in the area and the development of suburban neighborhoods with residential
lots and homes which were more modern and larger than those found in the older parts of 
the city.

With federal courts elsewhere insisting on a proportional mixing of the races in 
the name of desegregation, it may have been inevitable that attention would focus on a 
racial imbalance of the neighborhood schools in Benton Harbor. In 1967 a suit was filed 
against the Benton Harbor Area Schools by the NAACP and the parents of 12 black 
students in the district. The plaintiffs claimed that de facto segregation existed in Benton 
Harbor, and that the school system was “continuing to maintain racially segregated, 
educationally and psychologically detrimental schools” (Herald Palladium 
“Desegregation chronology” 3-31-96, p. 3A). This suit came to trial in 1970, and the 
court found no de jure segregation. The NAACP appealed (Herald Palladium 
“Desegregation chronology” 3-31-96, p.3A). By the time the second NAACP lawsuit 
was filed in 1976, the black student population in Benton Harbor was 73 percent (Berry 
1977 Opinion 1294).

Between 1971 and 1976, three all-white residential areas in the school district 
requested transfers out of the district or attempted to incorporate themselves. The former 
president of the Benton Harbor school board, Clinton Raines, testified in court that 
numerous attempts to transfer out of the district were the effect of, not the cause of, 
increased racial and discipline problems in the schools (MacIntyre “Transfer tries . . .” 
2-3-78, p. 1). Witnesses for the NAACP had earlier alleged that seven transfer attempts 
between 1965 and 1973 prompted unrest among black students. Mr. Raines said that 
after June 1967, discipline and racial problems rapidly accelerated to the point that white
parents feared for the safety of their children (Herald Palladium "Desegregation chronology" 3-31-96, p.3A). President of the Eau Claire Schools, testified that the Eau Claire board had never taken any action that would have discriminated against black students. Their policy of taking tuition students from a predominantly white area after petitioners attempted to transfer out of the Benton Harbor district was based on the economic need of the Eau Claire school for the tuition money from the students (Herald Palladium "Desegregation chronology" 3-31-96, p.3A). A document produced in court as evidence shows that enrollment in Eau Claire of tuition students from Benton Harbor increased from 17 students in 1970 to 107 in 1976 (Berry, 467 F Supp 630, 654 [1978]).

Judge Kent in 1970 found Benton Harbor segregated, but it was not de jure segregation (Berry 1977 Opinion 1284). The BHASD administration maintained that racial imbalance resulted not from discrimination but from a color-blind policy of assigning students to schools in their neighborhoods. The BHASD had the policy of "neighborhood schools" in that they designated attendance areas in order to secure equitable distribution in enrollment and to recognize the neighborhood community as an important factor in the school-community relationship. Such attendance areas could be altered or adjusted as circumstances required (Berry 1977 Opinion 1315-1316). The neighborhoods were segregated, as I have discussed, and there was an option the board could have taken--to dismantle the de facto segregation of the schools by transferring black students to white schools within the district. They chose not to do that. The board perpetuated the segregated situation by containing the black students in a black school even when the school was overcrowded and the building was old and dilapidated. The
court found that the neighborhood school policy existed only on paper and was inconsistently applied in the district, perpetuating the segregated system (Berry 1977 Opinion 1316-1317).

Judge Fox concluded that, because the BHASD Board was restricted by the lack of funds to maintain or repair all the schools, it marshaled its limited resources in the district’s identifiable white schools, to the detriment of students in identifiably black schools (Berry 1977 Opinion 1321-1322). “While, under other circumstances, it might be admirable for the board to refuse to allow a decline in the quality of certain school facilities, it is not admirable where, as here, students in identifiably Black schools were forced to bear the major burden of sacrifice due to the Board’s lack of adequate funds to administer the district” (Berry 1977 Opinion 1306).

Benton Harbor and Benton Township are nearly surrounded by townships and towns which have a predominantly white population (refer to Age Distribution table, 1977 Defense Exhibit). Some people in the BHASD were able to sell their houses and move a few miles to a predominantly white school district (refer to Concentration of Black Population in Berrien County, from US Department of Commerce, Social and Economic Statistics Administration, Bureau of Census, May 1975). In 1975, Coleman coauthored a report for the Urban Institute, “Trends in School Segregation, 1968-73,” which found that, because of the departure of white families, desegregation orders within a given district often had the effect of creating greater segregation between districts (Kahlenberg 2001, p.8). He found that while all the districts he examined saw some white flight, those experiencing school desegregation saw white flight at four times the expected rate.

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Many who were unable or unwilling to move, enrolled their children in existing parochial schools. Statistics pertaining to student enrollments should be interpreted cautiously; there are factors other than desegregation that influence the situation. Advocates of desegregation note that there is a lower birth rate among whites than blacks; there is a general migration from the North and Midwest to the South and West. The heart of the busing story is not that some families moved away and others sent their children to private schools; it is that people do not move into communities where there is forced busing (Wolters 1984, p. 247). The implication of white flight is that the action of the white families is based on racism and the desire to avoid having black children in their schools. As I mentioned when discussing the Kalamazoo case, sometimes real estate agents guide new residents of a community away from the black residential area and away from the desegregated school district. If new residents are not attracted to the desegregated school and the white families who moved from the district are not enticed into moving back into the district, the district becomes more segregated as the years progress. As Coleman predicted, “if the [school] system is made even larger, to cover the whole metropolitan area, many parents will find ways to escape it, either by moving even farther out or by the use of private schools” (Wolters 1984, 283). It would be only a matter of time, he continued, “before the departures completely overcome the results of the integration, leading to a system that is more segregated than was the case before. From now on, we will see a general resegregation in all areas of the country . . . School integration is just not stable where the proportion of blacks in the district is very
This is a reflection of racism and racist practices characteristic of many places in the United States.

Elaborating upon his discussion of the outcome of "severe" remedies, "such as busing [white] children to a different part of the city," Coleman said whites who wish to be in a school district without responsibility for large numbers of black students and who consequently "cannot be found guilty of segregating actions," have a simple strategy in response to compulsory race mixing in public schools: They move their residence "and they do so in large numbers when the 'remedies' imposed are severe" (Coleman 1981, p.187-188). Coleman's assertion about white flight has become conventional wisdom. He has been joined in his opinion by several other social scientists such as David Armor who believes "there is ample evidence . . . that Whites do flee desegregation plans that mandatorily assign or bus students to schools outside their neighborhoods" (Armor 1972, p.213). Thus, the issue in school desegregation planning has shifted from concern about how best to include blacks equally on all educational opportunities to concern about how best to avoid driving whites out of the local city school system (Willie 1984, p. 126).

BHASD Board

In order to understand the decision-making behavior of the BHASD Board which led to the busing order in 1981, one must first put into perspective what options the board had from the time of its formation in 1965. We will review the literature available from the historic perspective, the research perspective and from the perspective of a district attempting to avoid segregation and federal court action against the district.
CHAPTER IV
ANALYSIS

Part I: The transfer of Sodus II to Eau Claire Schools

The environment

The SBE of Michigan for many years provided reimbursement of tuition money to each school district that was small and did not have a high school for its students. The resident districts paid tuition to the receiving school district or districts which accepted their students for high school. Benton Harbor accepted students from 22 small districts in northern Berrien County. Early in the 1960s the SBE announcement that it would no longer pay the tuition for the feeder school districts was an indication they wanted to eliminate the school districts which were too small to maintain a K-12 system. Residents of the small districts discussed their options (interview with board member).

Several of the larger K-8 districts made unsuccessful attempts to combine their students and form a K-12 district. The elementary districts could not afford to pay tuition to another district for their students without the reimbursement from the state. Benton Harbor began to make plans for a larger district which would accommodate the students from the K-8 districts.

The first attempt at consolidation, in 1962, did not pass in the election. A forward-looking superintendent at Benton Harbor, Albert Johnsen, formed a committee which
began to plan for a consolidated district. The committee met every week for more than a year and devised a plan to consolidate 16 elementary districts into the BHASD. In 1965, the plan was accepted by the voters in each district which was included in the plan. To administer the new district, the Berrien County Superintendent of Schools appointed a temporary board with representation from each elementary district. Several of the temporary members ran for election and were on the first Board of Education of the BHASD (interview with a former superintendent).

The discrepancies between the facilities and the educational opportunities of the K-6 and K-8 schools and the schools which were part of the earlier Benton Harbor district were apparent from the beginning. The information in Benton Harbor Area School Buildings table, 1977 Defense Exhibit, indicates the age of some of the buildings which were not in good physical condition at the time of consolidation. The financial conditions in some of the schools were worse. In one instance, the newly consolidated school spent $1 per pupil per year on school supplies for its students. It had no music, physical education program, or library for the students. In the next block, one of the Benton Harbor elementary schools spent $10 per pupil per year on school supplies and provided a full activity schedule for the students. It was the responsibility of the board to adjust the attendance areas, create a fair and equal budget, close unsafe buildings, and hire teachers for a large and growing district (interview with a former superintendent).

In a positive move, one that was not segregative, the board immediately began to transfer minority students from the overcrowded conditions in one school (45-48 students per room) to an all-white school which had room for them. This was in 1965, a year before
the SBE declared that local boards should consider racial balance when picking school sites, reorganizing boundaries, and transferring students (Vergon and Wilson 1978, p. 5). It would be seven years before the 1973 *Keyes* case established some precedent for Northern *de facto* desegregation. The concept of duty to desegregate a *de facto* situation was not commonly adhered to. According to a member of that school board, the board made these decisions because they were citizens trying to do the right thing concerning the *de facto* situation. They were not acting out of fear of an unlawful situation, but out of a sense of community responsibility. They were actors in a creative plan to improve the schools in their community (interview with a former board member).

In November 1967, two years after the consolidation, the NAACP filed suit in U.S. District Court against the BHASD Board and the superintendent for "maintaining racially segregated, educationally and psychologically detrimental schools" (*Berry* 1977 Opinion 1284, quoting complaint). In 1970 the NAACP lost its suit when Judge Wallace Kent found that the BHASD was segregated, but it was not *de jure* segregation.

It was made clear to the voters in the BHASD that a multimillion dollar building program would have to be initiated after consolidation. The first phase was defeated in June 1967. A non-controversial site for the junior high was found, and a similar bonding proposal was defeated in December 1967. Further planned millage elections were postponed or canceled (MacIntyre, "School Boundary. . . " 6-22-77, p.3).

By the time school began in 1970, the secondary enrollment was so large Benton Harbor High School was forced to conduct school days in "split sessions," with students in grades 11 and 12 attending classes in the morning and grades 9 and 10 attending in the
afternoon. Racial tension at the high school increased (*Herald Palladium* "Twin Cities. . ." 6-2-57-77, p.1). The administrators at the high school hired security personnel to patrol the halls, the cafeteria, and the gym of the school before, during, and after the school day. Uniformed local police guarded the doors of the school during athletic events and social events, and increased their patrols outside the school during the days and nights.

New teachers invited students, most of them seniors, to their homes after school and discussed school problems with them. They encouraged the students to write down any act of racial discrimination they experienced at school. Eventually, the students created a petition and presented it to the school principal. The petition asked that a black person be hired as an assistant principal in the high school. The principal refused to consider the petition and the students began demonstrating against the administration. This demonstration became known as “The Student Riot of 1971,” for which 94 students were permanently expelled from the high school from both day and night classes (interview with a former teacher).

In January 1971 the BHASD Board appointed a Blue Ribbon Committee to study the problems of the district schools. The Blue Ribbon Committee report detailing problems in the BHASD said “a January 15, 1971, riot at the high school ‘was the single act which precipitated the final frustration of many in the Benton Harbor School district who had worked diligently to build a school system of harmony and excellence.’ The report said that the riot ultimately led to the efforts of many others to leave the Benton Harbor district” (*MacIntyre, “Black-White. . .”* 6-23-77, p.1).
The Committee saw the major questions before it as:

1. Stability of the entire Twin Cities area
2. Safety of children in school and community
3. Quality of education in the Benton Harbor district
4. Protection of property values
5. How to change the district to solve these problems.

The Committee voted 14 to 7 that redistricting was necessary to stop the exodus of families from the Benton Harbor area, but it was unable to recommend a particular plan (Berry 1977 Opinion 1332).

“Safety was the primary concern of white parents whose children attended Benton Harbor High School in 1970 and 1971. Many of the parents justly feared that their children would be harmed,” said Lester Page, a board member from 1965 to 1971. He admitted that disciplinary problems and racial tensions at the high school and junior high school level had “become more serious” in 1970 and 1971. The concern sparked proposals to split the district into smaller districts. Page said he opposed such proposals because they would be in violation of the state and federal constitutions and would be detrimental to the community (MacIntyre, “Ex-BH Board . . .” 6-27-77 p. 1).

The SBE received seven requests for transfer from the Benton Harbor district between 1970 and 1974 (refer to Berry 467 F. Supp 630). The BHASD Board rejected five of the requests because the transfers “would have had an adverse racial effect” (SBE membe testimony reported by MacIntyre, “Ex-BH Board . . .” 6-27-77 p. 1). The SBE approved the transfer of the Eaman Elementary School area to the Coloma School District.
In 1974, it approved the transfer of part of the Sodus school area known as “Sodus II” to
the Eau Claire School District. The SBE voted on January 7, 1976, to reverse the Sodus
decision, but the reversal was held in abeyance in a suit in Berrien Circuit Court
(MacIntyre, “Ex-BH Board . . .” 6-27-77 P.1).

“[A member of the SBE] told the court the state board brought the Sodus transfer
up for a second vote because the board was ‘alerted’ that litigation in the Benton Harbor
desegregation suit was still underway. [The SBE member] said the state board was not
aware of the desegregation suit in 1970 when it voted to approved the Eaman transfer.
The board was not told of the suit until after it approved the transfer on July 2, 1970, she
said. She also said she was very concerned that the Eaman approval would trigger transfer
petitions from other groups hoping to separate from the district” (MacIntyre, “Ex-BH

Eaman School, a small white district north of Benton Harbor, became part of the
BHASD after consolidation in 1965. The residents of the Eaman district, starting in 1969,
sought permission to leave BHASD and become part of the Coloma Public Schools. This
was the first of several attempts by white schools to transfer out of the BHASD into
neighboring school districts. The President of the Benton Harbor School Board, Edward
E. Bentley, testified in court in October 1977, “that all seven attempts to transfer large,
predominately whites areas out of the Benton Harbor district between 1969 and 1973
would have the foreseeable effect of furthering the racial isolation of remaining black
students” (MacIntyre, “Eaman Transfer. . .” 10-26-77, p. 1).
The Eaman transfer was rejected by the BHASD Board and the BCISD Board, but was appealed to the SBE and was approved on July 2, 1970. The Coloma Schools took no official action to oppose the Eaman transfer. (MacIntyre, “Eaman transfer…” 10-28-77, p. 3). In August 1970, 150 white Eaman School students (.013 % of the total BHASD enrollment) began enrolling in the Coloma School District (3,051 students, 0.4% black), removing those students from BHASD (MacIntyre, “School trial eyes Eaman…” 10-27-77, p. 3). After the transfer, the total enrollment of BHASD was 11,166 with 53.7 % black.

In April 1973 the BHASD Board voted to not oppose the transfer of part of three former Sodus Township districts to the Eau Claire school district. The board action deviated from a former policy of denying all transfer proposals. The board approved the transfer of the Sodus, Mt. Pleasant and Chadwick Elementary School areas of Sodus Township (known as “Sodus II”), 143 students, to Eau Claire (refer to Berry 467 F. Supp 630).

The BHASD Board could have chosen to deny the application, as they had previously denied every application for transfer out of the BHASD. It had established the practice and announced the policy of denying the transfer of students because such action would violate the state and federal constitutions (MacIntyre, “Ex-BH Board…” 6-27-77, p.1).

The Board’s decision and its effects

The BDASD Board received a petition to transfer parts of three Sodus schools. The Sodus II transfer request involved about 2.5% of the district’s State Evaluation Value
and 143 children, of whom 79 percent were white (refer to Berry 467 F. Supp 630). The Eau Claire district was 87.4% white for the 1973-74 school year (refer to Berry 467 F. Supp. 630). The BHASD Board, at a special meeting on April 13, 1973, reversed its previous position against all property transfers and took the following action:

“Mr. McDonald then read a statement and moved the following resolution:

In recognition of a petition presented to the Berrien County Intermediate School District by certain residents of the Sodus area, requesting a property transfer from the Benton Harbor Area School District to the Eau Claire School District, the Benton Harbor Area School District Board of Education wishes to make the following statement and resolution:

The Board has studied the Sodus request at considerable length, and has given much consideration to its effect on the community in general and the Benton Harbor School District in particular. Coincident with this request we have been presented with two plans for a redistricting of the Benton Harbor Area School District. The Board feels that, with some modification, these plans would provide a solution to many of the problems with which we are and have been confronted.

Accordingly, since the Sodus request for a property transfer to the Eau Claire School District is not inconsistent with a general
plan for redistricting the Benton Harbor Area School District, which is imminent, the Benton Harbor Area School Board of Education does not oppose the Sodus request for property transfer as indicated herein” (Minutes of the Board Meeting, 13 April 1973).

The motion carried 6-1. The Sodus II transfer was granted by the Berrien County Intermediate School District and approved by the SBE. The implementation of the Sodus II transfer was enjoined by the District Court, the injunction upheld by the Court of Appeals (Berry 1977 Opinion 1331).

The BHASD Board was made up of one black member and six white members. When the district was consolidated in 1965 a new board was elected, and there was a representative from each of the larger elementary schools in the district. This board served from 1965 to 1970 when three of the members chose not to run for re-election. They believed it was time for more black members to be elected in order to represent an increasingly black constituency (interview with a former board member). In 1965, the black population of Benton Harbor School District was 37.3% (refer to Berry 467 F. Supp 630) and the board was 14.2% (one member). In 1970 the black school population of BHASD was 58.7% of the total population. The school board had 3 black members and 4 white members (interview with a former board member). The BHASD was 37% black in 1965 and 73.1% black by 1977 (refer to Berry 467 F. Supp 630).

In August 1974, U.S. District Court Judge Noel Fox issued a temporary injunction order delaying the transfer of Sodus Township properties into Eau Claire school district. In November 1974, The Court of Appeals in Cincinnati upheld Judge
Fox's 1971 decision and found there was evidence of *de jure* segregation between the school districts. It sent the case back to federal court for retrial. In August 1975, Judge Fox ordered Sodus Township school students to return to the BHASD. He named Coloma, Eau Claire, SBE, and state Superintendent John Porter as defendants for the retrial.

**Community reaction**

Coloma and Eau Claire became defendants in *Berry* due to their decisions to accept students who lived in the BHASD. The citizens in the three school defendant school districts were “confused and distressed,” Judge Fox said: “I am well aware that many people are unfamiliar with and distressed by the law of the land which requires that school desegregation decisions, involving the education of our precious children, must often be made by a single judge rather than by other governmental officials or voters” (MacIntyre, “Would city. . . “ 6-27-77, p. 3). Judge Fox and Judge Hillman, with the Court of Appeals in agreement with them, took the position that if the local representatives and the state officials were not going to obey the law as it was interpreted in *Brown*, they, as Federal District Court Judges, would make sure the law was obeyed in the local school districts. The pattern of resistance to desegregation by local citizens and state agents (school boards) was repeated many times in many parts of the country. Whether the violation was in Denver, Boston, or Benton Harbor, the federal courts were willing to enforce the law (Vasillopulos 291).
In his 1977 opinion, Judge Fox found the BHASD Board, the Coloma Board of Education, and the Eau Claire Board of Education guilty of segregative intent. He said the redistricting proposals were “transparent attempts” to establish segregated school districts (MacIntyre, “Eaman Transfer. . .” 6-24-77, p. 1).

District Judge Douglas W. Hillman, in his decision of May 1981, introduced his opinion with this history of the area:

> It is also important to understand the population migration in and out of Benton Harbor within the last 15 years. Black students constituted 37.3% of the Benton Harbor district enrollment in 1966, 73.1% in 1976, and approximately 77% in 1981. Several factors account for this rapid change in the racial composition of the area and its school district. Movement of white population out of the city has accelerated and at the same time black movement into the city has increased. In addition, the black population presently has a birth rate that exceeds the white birth rate by 200%. These population trends are not unique to Benton Harbor, but have been characteristic of most urban centers throughout the country in the past two decades (Sterlieb and Hughes, “The changing demography of the central city,” *Scientific American*, Volume 243, No. 2, August 1980, p. 448).

> In addition, the City of Benton Harbor has suffered an economic disaster within the past decade. This fact cannot be
ignored in assessing the segregative impact of the unconstitutional acts of these defendants. Benton Harbor presently totters on the brink of bankruptcy. The downtown business district is a blighted area. It covers 11 square blocks and in that area over 90% of the stores have been closed. Unemployment is up 700% since the 1960s. The city is hopelessly in debt, existing on a day-to-day basis and over the past several months has seriously contemplated receivership (Berry 1981 Opinion, 347).

Judge Fox found, “The natural, probable, and foreseeable result of the Benton Harbor Board, the Berrien County Board, and the State Board of Education action in approving the Sodus II transfer was to increase and perpetuate segregation in the Benton Harbor Area School District.” The decision was not the result of a consistent and resolute application of racially neutral policies. The court concluded that the purpose and intent of the decision to allow the transfer was to allow white residents of the Sodus II area to escape from a majority-black school district the white residents no longer felt comfortable attending. The court concluded that approval must be deemed to have been undertaken with segregative intent.
Part II: Employment practices: the hiring and placement of minority staff

The environment

With consolidation came the need for more teachers. It was especially difficult to recruit black teachers to Benton Harbor. There was not much incentive for the teachers to work in Benton Harbor when they were being recruited in many other places in the country. Benton Harbor did not have desirable, affordable housing to offer minority teachers, and the new teachers knew there were segregation problems with which they would be faced (Darling-Hammon 2000, p. 25).

Available options

1. Assign black teachers to white schools.

2. Assign white teachers to black schools.

The Board’s decision and its effect

In the 1966-67 school year, 68% of all black elementary and junior high teachers were assigned to schools with a 75% or more black enrollment. For the 1969-70 school year, the percentage rose to 85%, an increase of over 16%. In a positive move to decrease segregation, 24 black teacher were hired to begin the 1975-76 school year. Eight white teachers were transferred in an attempt to achieve racial balance of the staff within the district. An affirmative action policy was passed by the BHASD Board 17 February 1975 as a result of the 1974 Court of Appeals decision and at the urging of the NAACP (letter
from personnel director to superintendent 19 May 1977). Three black teachers testified without contradiction during the 1977 trial that they were not afforded an opportunity to obtain employment in white schools. Thus, it appears that they were assigned to black schools because they were black, which by all standards, is unconstitutional (Berry 1977 Opinion 1300). It appeared to the public, the teachers, and the court that the assignment of teachers was segregative.

Judge Kent, in the 1970 evidentiary hearing in Berry, ordered the BCASD Board to cease from assigning teachers upon the basis of race, which it immediately did. This finding, however, was considered as part of the cumulative evidence of the constitutional violations of the board. Because assignment of teachers upon the basis of race adds to the racial identifiability of a school, it may hasten the increased segregation of that school or help to preserve it in a segregated state.

In the 1966-67 school year, only 51 of 469 teachers, about 11%, in the district were black. By the 1969-70 school year, there were 83 out of 460 teachers in the system, or 17.8%, a 60% increase. “The evidence as to the assignment of teaching staff can be rationally attributed only to a deliberate and conscious desire to create or perpetuate a segregated condition in these schools” (Berry 1977 Opinion 1301). This policy, undertaken with segregative intent, not only hastened the segregation of the identifiably black schools, it had other, more subtle detrimental impacts upon plaintiffs and the class of student they represent.

“...The policy of assigning black teachers, many of them newly hired and freshly out of school, to identifiably black schools, coupled with the collective bargaining agreement...
which permitted the more experienced teachers to transfer out of the black school to preferred positions in white schools, resulted in the students in identifiably black schools being taught by a higher percentage of teachers without degrees (i.e., possessing a “90-day” certificate or other temporary certification) or without prior teaching experience” (Berry 1977 Opinion 1301-1302).

“Following from the fact that the teachers assigned to identifiably black schools were less qualified and had less experience, the teaching salaries at identifiably black schools were significantly lower than in the identifiably white schools. Consequently, the per pupil expenditure for teacher salaries was lower in black schools than in white schools. . . . The sum result of this discriminatory teacher assignment policy was that Black students contained in identifiably Black schools, who admittedly had the greatest need for well-trained, highly experienced teachers, suffered further educational deprivation due to the higher percentage of undertrained and inexperienced teachers assigned to their schools. . . . In addition to new teachers who were paid at the lowest rate, the expenditure per pupil per year for supplies was unequal and less in the Black schools than in the White schools” (Berry 1977 Opinion 1302).

Community reaction

The new teachers were assigned to the minority schools, and the parents did not feel they were as good as the experienced teachers. They were paid less (contractual) and they were not able to discipline the students well. The black community thought they had been victims of discrimination. Because many of the Benton Harbor schools had not
been well-maintained and the classrooms were crowded, the impression was that the board was attempting to run two separate school districts: one white and one black (interview with a former superintendent).

"Throughout this period of time, the Board was kept on notice by public statements of the Twin City Area NAACP, the Mayor of Benton Harbor, the Benton Harbor City Commission, the Benton Harbor/Benton Township Housing Commission, and the Township of Benton that the transfer attempts and redistricting plans were transparent attempts to establish segregated school districts out of the BHASD" (Berry 1977 Opinion 1334).

Part III: The use of buildings and the use of portable classrooms

The environment

"Unequal school facilities are another indicium of de jure segregation [citing Keyes 559; Swann. 1277]. In this case, it is possible, independent of student assignment to identify "White" schools and "Black" schools simply by reference to the quality of school facilities and equipment. . . . At the beginning of the 1969-70 school year, the median age of the seven schools 50 percent or more Black was 43 years, with the median year of construction being 1926. For the eighteen schools 50 percent or more White, the median age of the buildings was 17 years, the median year of construction being 1952. . . . The playground space provided children in the system’s elementary schools also differed dramatically for identifiably White and identifiably Black schools. . . . [In]1968-69 . . .

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the five schools 75-100 percent Black averaged 167.23 pupils per acre of playground 
space while the fourteen 75-100 percent White schools averaged 37.09 pupils per acre of 
playground space.” [ The system average was 70.40 pupils per acre.](Berry 1997 
Opinion 1302-1303)

Plaintiffs asked the district to supply its own rating –excellent, good, fair, or poor– 
to the physical conditions, school facilities, and recreational space at the districts 
elementary schools and junior highs. The results were physical conditions, the school 
facilities, and the recreation space of white schools was superior to the black schools 
(Berry 1977 Opinion 1303).

Available options

The possible solutions to the use of substandard facilities were:
1. Purchase temporary facilities and move the students from poor facilities into the 
temporary facilities while repairs are being made.
2. Move the students into other schools where room is available.
3. Use portable classrooms as a temporary measure to relieve overcrowding and/or to 
allow construction on the substandard schools.

The Board’s decision and its effect

The former Grace Evangelical Lutheran Church vacated the facilities it had used 
for worship when it chose not to make repairs ordered by the fire marshal. The BHASD 
purchased the church and with the temporary permission of the fire marshal, provided
certain repairs were first completed, established five classrooms in the church (Berry 1977 Opinion 1304).

For the 1969-70 school year, the district assigned 87 students (83 of them black) to the Morton Annex, a poor facility which no one in another area would allow their children to attend (quoting a parent), despite available space at two contiguous schools, one with 61% white students and one with 94% white students. (Berry 1977 Opinion 1305).

The school board chose to use portable classrooms at black schools which were overcrowded rather than transfer students to nearby white schools. They used thirteen portable classrooms, twelve in black schools and one in a white school. Despite the board’s awareness that the placement of these portable facilities at identifiably black schools maintained racial segregation in the district, the board contended that to transfer the overcrowded students to nearby white schools, either where space was available or by placing portables at the white schools, would do violence to its claimed neighborhood school policy.

Community reaction

“Portable classrooms, of themselves not ideal educational facilities, serve to overload the central facilities of the schools—cafeterias, libraries, playgrounds, gyms, and so forth. . . . Portable classrooms also have a negative impact on the general community, who perceive the school as overcrowded and chaotic” (Berry 1977 Opinion 1311).
The court found the school system’s placement of these mobile units further evidence of official action maintaining segregative conditions. The use of portables at Calvin Britain and Bard schools, given the available space at nearby white schools, suggests an intent to contain blacks at those schools.

Community reaction as reported in the local press

The following summary of the community reaction to the claim of school segregation and the decisions of the BHASD Board is from the local press, the News Palladium, which later became the Herald Palladium. The articles are from the front page of the paper and are written by staff reporters who were not always identified with a byline. I reviewed news articles in the News Palladium and the Herald Palladium between 1960 and 2002 which covered the desegregation trial and the local reaction to the testimony in the trial. I also read the articles which reported the activities of the Twin City Area NAACP between 1960 and 2002. I have selected the articles which reflect the feelings of some members of the community, if those members attended a meeting or demonstration or expressed their opinions to the local media. Due to time constraints and the fact that the “Letters to the Editor” column is not indexed, I did not read the letters.

A weekly black paper called The Citizen was published for a short time during the 1970s but I was unable to find any copies in the libraries in Berrien County or online. Beginning in January 2002 a monthly paper Benton Spirit has been published. There have been no articles about the desegregation order in that newspaper.
From the News Palladium/Herald Palladium, there follows the dates, the headlines of the articles which indicate the community reaction to desegregation, and a brief summary of the articles.

The following headlines were early articles about the NAACP activity in the community:

7-3-63: "Negroes flare up in night"
7-18-63: "Leader of Wisconsin NAACP visits local chapter"
8-28-63: "100,000 ..."
9-23-63: "NAACP..."

As early as 1963 the NAACP notified the Benton Harbor School District there were unequal conditions in the school buildings. They sent a letter to the president of the board informing him of the deplorable conditions in some of the city schools and asking for repairs.

2-12-65: "Michigan NAACP leaders plan summit sessions here"

In February 1965 the Michigan chapter of the NAACP hosted the state leaders at "summit sessions." There was a demonstration in which the delegates marched from their meeting place at the Armory to the Benton Harbor City Hall, approximately one mile. There was no official reaction to the demonstration by the local government. This was the first public demonstration of the NAACP in the community.

4-7-65: "NAACP demand probe of blaze"

On the night of 2-11-65, the unoccupied house of the president of the local NAACP, Will Branscumb, caught fire in the middle of the night. The paper reported that
it was caused by “faulty electrical wiring.” Two months later, 4-7-65, the house was burned to the ground. This time the NAACP demanded an investigation of the fire and the FBI investigator reported it was intentionally set.

According to Mr. Branscumb, he received many threatening phone calls and letters. He reported them to the police, who drove by his house to protect him.

3-16-65: “March at Berrien County Courthouse”

The NAACP conducted a march and demonstration at the county courthouse to call attention to their claim of segregation in the BHASD.

11-17-67: “BH Schools sued by NAACP”

In the suit, the NAACP charged that the BHASD ran a dual school system and the city schools were segregated.

Two black parents requested and were granted transfers for their children in the 1966-67 school year because there was a severe shortage of textbooks in the black schools. The parents found that the teachers in their schools were not allowing the children to take textbooks home because they did not have enough for everyone and were afraid a book would be lost. There was “an organized committee of nine which threatened to boycott and picket the school” if the board did not make an attempt to provide materials for the black schools. The demonstration never occurred because the school was restocked with books.

1-24-70: “Nation’s Eyes Are On You”

N. R. Jones, the attorney for the NAACP spoke to a group in Benton Harbor and explained that the Berry case had been “carefully researched in an attempt to achieve a
landmark decision.” He said the NAACP was ready to go all the way to the Supreme Court with the case. He charged BHASD with operating a dual system with black students receiving a different caliber of education than white students.

2-6-70: “McFadden calls for total BH integration” (Shanahan)

The assistant superintendent for community education answered arguments against total integration that the district would end up black. “Whites are fleeing anyway,” he said. When a parent suggested busing some students, he said, “It will cause conflict but there is already conflict precipitated by racial isolation.”

2-11-70: “NAACP blasts school policies” (Shanahan)

The NAACP loses its suit. U.S. District Court Judge Wallace Kent finds that the Benton Harbor School District is segregated, but it is not *de jure*, or illegal, segregation. During the trial Robert Green testified that:

1. attendance areas violated neighborhood concept
2. board failed to integrate the schools after consolidation
3. board transferred three black classes to white school and left the black classes intact.

2-11-70: “Claims whites not hurt by mixing” (Shanahan)

Wilbur B. Brookover, an expert for the NAACP testified:

1. A neighborhood or common school is within walking distance of each student’s home.
2. It was a melting pot for all elements of society with background and status disregarded in the common school

2-18-70: “NAACP loses BH suit but could win later” (Shanahan)

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Judge Wallace Kent said, "Many staff of BHAS would do everything they could to overcome the present segregative situation if they had sufficient funds and the backing of the majority of the members of the community which is obviously lacking."

4-20-73: "Sodus transfer attacked"

1. BHASD board voted 6-1 not to oppose the transfer of part of the Sodus school system to Eau Claire School system.

2. Benton Harbor Education Association’s 70 members voted unanimously to retain the present school boundaries (those after consolidation)

3. NAACP released a statement opposing the decision: "Integration has proven to benefit both races and results in improved self-image and achievement."

"At the April 17, 1973 special meeting of the BHASD Board it was made clear that a backroom decision had already been made to allow the transfer from Sodus to Eau Clarie. The board refused to recognize any of the representatives of the community who were present at the legal and announced meeting of the board." Those present who sought recognition but were denied the opportunity to speak were:

Michigan Civil Rights Commissioner

NAACP members

Concerned Patents of BHAS

Ministerial Alliance

Sodus Citizens Opposed to Transfer

Teachers in the BHASD

Mayor of Benton Harbor
The NAACP made the following statement about the above decision: “Black citizens will no longer be denied the freedoms already won... Members elected at-large, not by section, must function as advocates of all students in the district without preference to the hamlet from which they originate.”

6-23-77: “Black-white balance has ‘massive costs’”

Superintendent Richard Helser never attempted to correct racial imbalances because of the cost for additional buildings and school buses. Helser said, “If I can’t find money to patch ceilings, I can’t see how I can embark on a massive program to achieve racial balance.” Before 1975 neither he nor the board had taken any action to promote segregation, according to Helser; he had never been instructed by the board to work on reducing racial imbalances. In 1975 he transferred teachers in an attempt to reach a more balanced racial distribution of teachers. The same year the board adopted an affirmative action policy and hired 25 black teachers and no white teachers. Black principals were assigned to black schools and white principals were assigned to white schools.

6-24-77: “Eaman transfer called key to BH racial tension” (MacIntyre)

The testimony of the BHASD superintendent is reported as follows:

1. The Eaman transfer contributed to the polarization of the races in the BHASD, according to the superintendent.

2. The BHASD Board notified the SBE that the transfer involved white students from the district going to another district. “It is obvious to this board that racial tensions in the community have increased by the proposed transfer of whites from the district...
The races are polarized as never before,” wrote Superintendent Raymond Sreboth.

8-24-77: “Judge rules Benton Harbor district guilty of segregation” (MacIntyre)

There are “drastic differences between the physical conditions of the predominately black schools and the predominantly white schools,” said Judge Fox. “I conclude that these differences created not just a presumption of segregative intent, but rather could be attributed only to a conscious intent on the part of the board to marshall its limited resources in the district's white schools, at the expense of students attending the district's black schools.”

The Board decision in 1973 not to oppose the Sodus transfer had as its ultimate goal “the dismantling of the BHASD into separate, unequal, black and white districts,” according to the ruling.

8-31-77: “Busing foe seeks backers here” (MacIntyre)

David Gorski, the state chairman of National Association for Neighborhood Schools, Inc. (NANS), which claims 400,000 members nationally, said Michigan was the third largest chapter, but did not know the number of Michigan members. He is seeking support for his organization.

9-3-77: “Sodus parents bid for court ruling” (Williamson)

Concerned Parents and Taxpayers of Sodus are challenging the decision by the SBE to keep Sodus in Benton Harbor Area School District.

11-3-77: “Would city of Fairplain have aided BH schools?” (MacIntyre)

The State Municipal Boundary Commissioner Irving W. Rozian said the commission voted 4-1 to allow incorporation of Fairplain "to maintain higher property
values and reduce white flight from the area.” NAACP attorney, Thomas Atkins said the incorporation of Fairplain was “a scheme” to facilitate detachment of the predominantly white area from the racially mixed BHASD.

12-7-77: “BH School trial hits on rioting” (during the 1970-71 school year)

Harzel Taylor, the lone black member of the BHAS Board said parents should not have been alarmed by racial disturbances at BHHS in the 1970-71 school year. “In spite of the widely publicized disturbances, there were only 66 reported fights at the high school during the entire year.” He does not like to use the work “riot” for the incident on 1-15-71 that forced school to close for several days. “I felt the youths were reacting to conditions...to time...and as I could visualize it, whatever Detroit did, it wasn’t long before everyone else was doing it. It was a way that youth...not being able to change society...they had a power and they were exhibiting it.”

Attorneys for the defense claimed that parental fear for the safety of their children was a major factor behind the seven different attempts between 1969 and 1973 to transfer white suburban areas out of racially mixed BHAS.

In April of 1971, a Blue Ribbon Committee was appointed by the BCISD to find solutions to racial turmoil in BHASD. The members of the committee favored as a solution splitting the white suburban areas away from the predominantly black inter-city area of Benton Harbor.

Judge Fox’s reaction to the committee report was, “There is really only one defendant: the State of Michigan and its several agencies.”

12-8-77: “NAACP is blamed for BH problems” (MacIntyre)
NAACP opposed the bond issue in June 1967 which would have raised almost $10 million for a building program. Atty. Taylor stated that the district's serious problems began then, when the bond issue failed.

1-12-78: "BH schools trial hears tri-district merger plan" (MacIntyre)

NAACP presents a 1971 memorandum circulated among their own staff, but not among school officials, from the Michigan Civil Right Commission saying a merger of Benton Harbor, St. Joseph, and Lakeshore was the only one of 12 plans under consideration which would benefit both black and white students.

1-13-78: "'Metro' District idea told in US Court" (MacIntyre)

James Nettleton, a former member of the BHASD Board, blasted all the defendants for not performing and the jobs for which they were responsible:

State of Michigan: support and maintain local schools

Department of Education: help the school board follow the rules

BCISD: help the BHAS, guide the BHAS board, face the problems of transfers

Citizens of the community: provide the underlying support of the schools

Nettleton said the 1971 violent disturbance was the result of a "mood that swept across the nation at the time. It is reasonable to seek transfer under the circumstances: assault, disturbances, conflict, and extortion." He felt that people should stay. "This district would have worked if the people in the total community had wanted it to work."

1-14-78: "BH School trial focuses on 1971 riot"

Was the riot predictable?

1. There was an altercation between a black and a white student at a basketball
game 12-5-70.

2. There followed a week of racial incidents including several scuffles and arrests.

3. There was a student sit-in 12-14-70 by 200 students, forcing the closing of school.

4. On 12-15-70 black students presented a list of 7 demands called “Overdue Debts” to the BHAS board which included:
   
   A. more black teachers and administrators
   
   B. a voice in the hiring of teachers

5. On 12-16-70 about 100 white students walked out in protest over lax security. They presented school officials with a petition demanding increased security including hall monitors armed with MACE chemical spray. The statement, in part, said, “In plain language, it is becoming dangerous to come to school.”

The Herald Palladium reported earlier student demonstrations in BHHS in May 1968 and May 1970, and numerous incidents of vandalism to schools and altercations between blacks and whites, according to testimony by Nettleton.

1-25-78: “State, county school boards attacked on transfers” (MacIntyre)

James Nettleton makes the following statement: “Does the presence of assaults in Benton Harbor argue for letting some people out while forcing others to stay? I felt that in order to resolve the problems which arose people should confront them rather than turn their backs on them in hope of avoiding them.”

He further testifies that on 4-29-68 there was a black student walkout, followed by
14 demands which included:

1. the end to k-12 segregation
2. the integration of pre-school programs
3. the hiring of black teachers and administrators.

The Board learned from parents and students there was “a marked concern in the black student community that the board, administration and faculty were not sensitive to the needs of black students,” according to Nettleton. He says the disturbances by black students, “were manifestations of the concerns of blacks in trying to convey their feelings-and at times their hurt- when people turned their backs on them, in effect people trying to take territorial chunks from the district to further isolate these people in their own community.”

2-3-78: “Transfer tries called result of race woes” (MacIntyre)

Clinton Raines, former president of the BHASD board, says, “The numerous transfer attempts were the effect of, not the cause of, increased racial and disciplinary problems in the schools.”

2-4-78: “Ex-principal tells of BH school tension”

Lionel Stacey, the principal from May 1968 through June 1969, says, “BHHS was virtually paralyzed by discipline problems and racial tension in the spring of 1968.”

When he became principal on May 6, 1968, there were no students and no teachers in the building. All 105 teachers had walked out three days earlier, declaring the school “unteachable: because of threats and abuse from students. A week earlier, a group of 200 students, mostly black, declared a student strike and submitted a list of six demands to the
administration."

2-9-78: "High black birth rate cited in bias trial" (MacIntyre)

Jacob Driker, demographer and president of a private consulting firm in Detroit, presents the following report to the court: "The high black birth rate added 1,838 black students to BHAS between 1965 and 1977." The black birth rate since 1960 has been 37-40 per 1000 each year. For whites the birth rate in 1960 was 24.5 per 1000 and in 1977 had dropped to 12.5 per 1000. The decline of white students between 1960 and 1977 was 846 as a result of the decline in birth rate, according to Driker.

2-10-78: "NAACP attorney attacks Driker Report"

Thomas Atkins says the report is not credible because it does not consider the factors of racial discrimination of housing and employment in the study.

7-14-78: "Religious coalition names steering committee" (MacIntyre)

The purpose of the committee, according to the religious leaders is to promote the peaceful implementation of the desegregation order. The coalition includes:

Blacks and white, Benton Harbor, St. Joseph, Eau Clarie, and Coloma

As advisor: Howard W. McKinney, Department of Justice conciliator to assist communities in resolution of racial problems.

8-29-78: "Coloma meeting cheers no-busing declaration"

There is a meeting in Coloma conducted by the National Association of Neighborhoods, which opposes busing. There are 1800 people in attendance.

5-19-79: "High Court case has key to BH suit" (MacIntyre)

Judge Fox announces he will wait for the Supreme Court rulings on Columbus,
Ohio, and Dayton, Ohio, cases before deciding the Benton Harbor case.

9-11-79: “Deseg Plan calls for merger of school districts” (MacIntyre)

There are three members appointed to the panel by Judge Fox: Dr. Carl Candoli, Dr. Joseph H. McMillan, Charles B. Vergon. They recommend making one district of Benton Harbor, Eau Claire, and Coloma.

9-22-79: “NAACP calls for merger” (MacIntyre)

The NAACP supports the recommendation of the panel and asks the judge to accept the plan for a merger of the school districts.

11-8-79: “Three district merger ordered!” (MacIntyre)

Judge Fox adopts the plan recommended by the panel of experts to consolidate Benton Harbor, Eau Claire, and Coloma schools into one district.

11-27-79: “New Eau Claire groups forms to halt busing” (Fisher)

The “Citizens Committee” will go farther than NANS in opposing busing, and expects the support of NANS in their attempt to stop busing.

12-11-79: “Busing foes plan to see Judge Fox” (Fisher)

Thirty-three people from Eau Claire travel to Grand Rapids to obtain an affidavit from Judge Fox stating he will accept the responsibility for consequences of his order, including any emotional or physical harm to the students. The judge was out of town and did not see the group of citizens.

1-9-80: “Coloma group joining anti-merger struggle” (Stevens)

There is a meeting of the “Concerned Citizens Group” which suggests:

1. Put pressure on elected officials to oppose the merger.
2. Convert Eau Claire and Coloma public schools to private schools.

3. Citizens withhold payment of property tax.

1-25-80: "Coloma files desegregation objections; plan called impractical, disruptive, detrimental" (MacIntyre)

The Coloma School District objections in response to Fox order are:

1. The plan doesn't consider white flight.
2. It is an attempt unrelated to any findings by the court.
3. It creates difficulty for faculty and students by assigning student of widely varying ability to the same grade level.
4. It has a disproportionate effect on white students who face longer bus rides than black students.
5. Different disciplinary codes may be applicable depending on the race of the student.

2-6-80: "Unite in boycott call" (Stevens)

Two hundred people in Coloma vote unanimously to support a boycott of a court-ordered desegregation plan. "Coloma Concerned Citizens Committee" have the following objections to the plan:

1. The Eaman transfer did not contribute to the segregated situation in Benton Harbor.
2. The plan will not provide quality education for black or white students.
3. Busing will further segregate the races and increase racial tension.

2-16-80: "Judge Fox quits schools case!" (MacIntyre)
Judge Fox presided over the Berry case from 1973 to 1980, and withdrew on February 15, 1980, at the insistence of his doctor.

3-26-80: “White flight seen as aftermath”

Abraham Citron, chair of Department of Sociology at Wayne State University predicts a resurgence of white flight when the school desegregation plan gets underway. He says his prediction is based on past experience in Detroit and Boston.

6-13-80: “Educator claims that busing can create ‘miracle’” (MacIntyre)

“You’re endangering this society when you lock black children into racially isolated schools.” says Neil V. Sullivan, a nationally known educator and superintendent of Beckley California school system in the mid-60s when it was the first large district in the United Stated to undergo voluntary desegregation. Sullivan says the effort was successful because the whole community was involved in the planning and because parents perceived the newly integrated schools as being safe and offering good educational programs.

Sullivan says if desegregation is done right, achievement levels of white students will not suffer and achievement levels of black students will gain slightly. The best thing is “the miracle that comes about” when white and black children learn to understand each other’s feelings and motivations.

7-19-80: “No new BH school trial!” (MacIntyre)

“The factual findings of Judge Fox are amply supported by the record . . . They are sufficient and form the basis for a remedy in this case,” said Judge Douglas Hillman, the presiding judge in the Berry case. He was appointed to the case when his name was

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drawn to replace Noel Fox who withdrew from the case in February 1980 at the insistence of his doctor.

8-22-80: “Transfer termed damaging” (MacIntyre)

Robert Green, educational psychologist, reports that a school “transfer has a damaging psychological impact on black and white students in both the sending and receiving districts.” The message to the white students, according to Green, is: “Get out as fast as you can.” The message to the black students is: “You are unworthy and inferior at the same time you gave white students a feeling of superiority.”

8-26-80: “Busing termed not harmful” (MacIntyre)

Robert Green disagrees with James Coleman because Coleman in his 1966 report did not take into account factors other than desegregation which prompt people to move from the city to the suburbs.

1-7-81: “Court adviser recommends against BH school merger!” (MacIntyre)

Michael J. Stolee, court appointed adviser, recommends voluntary busing only if it enhances racial integration in both the sending and receiving districts. He reaches that conclusion because he finds the Eau Claire and Coloma violations “not major.”

1-8-81: “BH school remedy ‘pipe dream’” (MacIntyre)

NAACP attorney Thomas Atkins says, “All voluntary plans are pipe dreams. This plan (Stolee’s) would officially seal off Benton Harbor as the black district in Berrien County.”

1-22-81: “Desegregation needs local effort, DuPont consultant tells BH area” (Zdrojewski)
Joseph Rule, a consultant for community affairs for the DuPont Corporation says the failure of segregation in Wilmington, Delaware in 1975 was the result of the failure to mobilize the support of the community. “Local people have to solve local problems. Churches and church groups, the mayor’s office, state agencies and school employees need to become involved. People want to participate and they need to be kept informed of the positive things happening within their schools.” He was invited by the Whirlpool Corporation to speak to a group of local leaders.

5-1-81: “Judge rejects forced merger” (MacIntyre)

Voluntary desegregation is ordered to begin in the fall of 1981. Judge Hillman says he believes a “great majority” of black and white parents have no objection to integrated schools. “All parents object strenuously, however, to a system that appears to use children as pawns to bring about desirable social and economic goals that adults have as yet failed to achieve; such as fair and equal housing, freedom of mobility, and equal employment opportunities.”

He recommends:

1. accepting James P. Comer’s plan to improve achievement levels of the BH system.
2. creating magnet schools to attract Eau Claire and Coloma students
3. closing three white schools and reassigning those students
4. employing 10% black teachers in Eau Claire and Coloma through affirmative action
5. using the pairing of schools to achieve the desired enrollment in each
elementary school of 70-75% black.

5-8-81: "BH deseg plan called 'asinine'"

The superintendent of BHAS describes a student reassignment plan ordered by Judge Hillman as "expensive, illogical, and quite asinine."

A board meeting is scheduled to allow parent to express their opinions on the decision. Fewer than 50 people attend. Only two parents speak against the busing plan.

5-27-81: "BH school plan gets judge's OK" (MacIntyre)

Judge Hillman's plan, including voluntary busing is to begin in the fall of 1981. He has faith that the Comer plan will work.

The Comer Plan is:

1. Students remain with the same teacher for 2 years in grades 1-4.

2. Eliminate disciplinary problems from the classroom by creating a "crisis room," a separate room for disruptive children.

6-6-81: "Judge seeking desegregation support" (MacIntyre)

Judge Hillman says his voluntary student desegregation plan will not work without broad community support.

8-15-81: "Some 'white flight' is seen"

At the beginning of the 1981 school year twice as many students transferred from Benton Harbor public schools to the Catholic school. Benton Harbor reported that, in 1980, 31 students asked to have their records transferred to Lake Michigan Catholic, and, in 1981, 63 students requested to have their records transferred.

8-31-81: "Local deseg going smoothly"
The first day of school under the court-ordered desegregation plan is judged, "Normal school day," by a Benton Harbor school spokesman.

9-1-81: "Pot mixes without boiling"

Coloma officials are pleased with the opening of the school year under the desegregation order and they report having no major problems.

On April 5, 2002, the following headline was carried above a story by Mike Rupert in the Herald Palladium: "Judge Hillman dismisses case that addressed racial inequities in Benton Harbor, Coloma and Eau Claire." Thirty-five years after the complaints of a 12-year-old black Benton Harbor girl led to the desegregation of schools in northern Berrien County, U.S. District Court Judge Douglas Hillman formally dismissed Berry v. Benton Harbor Area School District ("Berry"). Judge Hillman wrote in his 50-page decision that, "While the Benton Harbor district did not fully comply with my order, as a whole, board members and administrators actively sought to improve student achievement in the school district with the understanding that the remedial order required such efforts" (Rupert 2002). He said the district has "unquestionably" made "substantial and continuous" efforts to improve student achievement, and when its high poverty rate is factored in, "Benton Harbor is statistically comparable to state-wide performance." (Rupert 2002). Hillman said he believes socioeconomic factors, including poverty, unemployment and white flight from the community since and possibly because of the order- not the lack of effort by district officials- has and continues to contribute to the problems in the district.
“The current racial composition of the Benton Harbor schools’ enrollment is not causally related to the earlier constitutional violations found by this court, but rather is the result of demographic and economic forces that are not unique to Benton Harbor and that both predated and continued through this litigation” said Hillman (Rupert 2002).

The order noted that in 1960 there were 35,000 whites who lived in the district. By 1990 that number dropped to only 12,000. During the same period the black population of the district went from 10,000 to over 22,000 (Rupert 2002). “Although the needs of a district like Benton Harbor, with its pervasive poverty and unemployment, cry out for continuing assistance from the State to meet its obligation to all students, it is neither jurisdictionally proper nor socially advisable for this court to order those interventions,” wrote Hillman (Rupert 2002). The cost to the taxpayers for the Berry lawsuit, according to John Tully, the attorney for the BHASD for the case since 1969, will be over $100 million (Rupert 2002).
CHAPTER V
SUMMARY, CONCLUSION, AND RECOMMENDATIONS
FOR FURTHER STUDY

Summary

This socio-historical analysis has focused on the BHASD Board's decisions affecting racial balance in the schools, analyzing key decisions by the use of four research questions. The purpose of the research questions was to gain an understanding of the milieu in which each decision was made and an awareness of the racial effects of each decision and the possible racial effects of any apparent alternatives. By looking at the situational environment in which each decision was made, and the community reaction to the decision, an understanding of the milieu in Benton Harbor at the time was reached.

The consolidation in 1965 of 18 school districts into one large district called the BHASD was the beginning of our chapter of this long and tragic story. Almost immediately after consolidation the board was under community pressure to alleviate the imbalanced situation created by the consolidation. Action was called for by the black community, as well as the general citizens' committee studying the problem. The effect of the decisions the board made which led to the desegregation case resulted, in the three schools, in a more segregated situation. Choices or options exist for all decisions; I explored whether options available to the board could have resulted in a less segregated situation than the options chosen.
The transfer of white students out of the BHASD to Eau Claire clearly resulted in more segregation. The BHASD Board did not object to that transfer. The assignment of black teachers to the black schools was a decision by the principals, allowed by the Board. The assignment of each teacher was the responsibility of the principal in each school. This responsibility was given to the principal by the Board. The results of that decision were that there were no black teachers in white schools and there were few white teachers in black schools. The court found segregative intention in the assignment of teachers. Implementing the third decision, the Board assigned students to neighborhood schools, which also resulted in a more segregated situation. The Board rejected other options because the policy of the Board had always been to establish neighborhood schools. Because of the residential pattern in Benton Harbor, that policy resulted in more segregation. The court found the Board was inconsistent in its implementation of the neighborhood policy.

In the Oliver opinion, Judge Noel Fox found the Kalamazoo Board of Education guilty of creating and maintaining segregated conditions in Kalamazoo, citing examples to prove that the board was not following a color-blind neighborhood policy to maintain a segregated situation. One proof was the record of additions to already imbalanced schools, and the use of portable classrooms at these buildings, to maintain their separateness (Oliver v Kalamazoo Board of Education).

There were members of the black community who exerted pressure on the Board to discontinue the conditions which resulted in segregated schools. Two of the black parents, who found the books and materials at their children's schools out of date and
inadequate in number, requested and were granted the transfer of their children to white schools ("BH schools sued by NAACP," 11-17-67). The poor physical condition of the city schools, the crowded conditions, and the lack of black teachers led to a suit by the NAACP in 1967, charging the Board with segregative intent.

The 1970 transfer of white students from Eaman school to Coloma school and the increase in racial tension among the students at the secondary level was the first major publicized decision which appeared to lead to more segregation. This decision, which was forced upon the Board when the State Board of Education approved the transfer over the objection of the BHASD Board and the BCISD Board, played a major role in increasing a segregative situation. The BHASD Board adopted a policy of denying transfer requests which would lead to more segregation. There were six more such requests.

In 1973 the request for parts of three schools in Sodus to transfer to Eau Claire was not opposed by the BHASD Board, the BCISD Board, or the State Board of Education. The BHASD Board had decided to reorganize the school district and with that impending plan, decided not to oppose the Sodus II transfer. The court blocked the execution of that transfer and, in a trial, found the decision segregative.

The placement of minority staff in schools identifiable as minority schools added to the imbalance of the schools. Black teachers were assigned to black majority schools and white teachers were assigned to white majority schools. This policy was found to increase the segregation of the schools. Reassignment of minority staff would seem a
fairly logical option. This alternate decision would show good faith on the part of the Board, while resulting in minimal disruption to the students.

The overcrowding of several of the district schools and the use of portable classrooms to relieve that problem were seen by the NAACP as segregation.

Minority students assigned to identifiably black schools are cut off from the majority culture, which is widely reflected in standards both explicit and implicit that determine success in our society. The court found that the Benton Harbor Area School District “consciously decided to marshal its limited resources in the district’s identifiably white schools, to the detriment of students in identifiably black schools” (Berry 1977 Opinion 1306).

The policy of the BHASD Board regarding geographic attendance zones and student assignment was:

On the elementary level your Board feels that the neighborhood school concept is fundamental and should be maintained. The elementary school child is better served educationally when attending a school as near to his home as possible. We do find, however, that in some cases existing buildings are not located in an area where sufficient space is available to handle the student body. In those cases where crowding is a serious problem, students may be moved to less crowded schools to improve their educational opportunities”
The court defined the term “policy” to mean “not merely what is actually done, but rather a set of general goals which were adopted for governmentally legitimate reasons, which bear a rational relation to the functions to be served, and which are routinely and consistently followed...” (*Berry* 1312). It found the Board did not consistently apply this policy.

Dr. Robert L. Green defined a neighborhood school as a geographical unit determined by the distance a child must travel to a given school and boundaries such as freeways, railroads, etc. (*Berry* 1977 Opinion 1315). The Board presented its neighborhood policy as the reason for the decisions it made. The court found the neighborhood policy did not exist except on paper because it was inconsistently applied except in the black schools.

All of the judicial developments reported in this document have been extensively analyzed in educational as well as legal journals, and covered in the popular press. All of the actions taken by the BHASD Board are a matter of public record. The Board has had expert legal and administrative help in understanding desegregation developments.

**Conclusion**

The Benton Harbor School District had segregated elementary schools for many years before the *Brown* decision, as the attendance areas reflected the segregated residential pattern in the district. The predominantly white residents in the communities...
outside Benton Harbor had white elementary schools and sent their students to Benton Harbor High School. Until consolidation in 1965, there is no public record of complaint or protest about the situation. After 1965, it became obvious that the oldest facilities, poorest supplies, and most crowded conditions were assigned to black students; the new schools, new books, fullest curricula were assigned to white students.

The responsibility for the policies of the school system lies with the locally elected school Board. It continued long-term practices which perpetuated the existence of a dual school system and it succumbed to the temptation to spend more of the district money to maintain the white schools than to repair the black schools. Its constant defense throughout the years was that its decisions were based on the policy of maintaining neighborhood schools. After the 1970 trial, I believe some Board members made, to the best of their ability, a sincere and constant effort to create a less segregated district. The decisions by the Board which I analyzed led to more segregation, and they showed that the Board had the option of making alternate decisions. If the SBE had been more responsive and if the SBE had been a consistent and strong supporter of desegregated schools, the BHASD Board may have been able to better carry out its job at the local level.

There is often criticism of a judge who is actively involved in a school desegregation case for a long period of time. In many cases the judge orders the remedy, then plays a minor role in the case. In this case, Judge Fox and Judge Hillman were active for many years in the Berry case. Even though Judge Hillman appointed monitoring boards, he kept abreast of virtually all the developments in the school system.
that might affect implementation of the desegregation plan. He was involved in
budgeting matters, staffing patterns, establishment of magnet schools, and school
closings. Critics contend that such a role is beyond the bounds of required judicial
behavior.

If school authorities comply with the general directives of the court and if the
monitoring boards responsibly report to the judge, extensive judicial control is not
necessary. In this case, because compliance was sometimes grudgingly given, Judge
Hillman felt it was necessary to be actively involved until the end of the case. He was
disappointed in the performance of the people he appointed to supervise and observe the
desegregation plan, so he performed those duties himself.

With the federal court exerting pressure on the Board through the monitoring of
its actions, the court had the role of leading the Board toward desegregation of the
district. The problem was complex and ultimately overwhelming. The Board turned to
the State Board of Education for leadership, support, and guidance. The SBE is an
elected state board which is obliged to provide those services to local schools. In this
case, the SBE failed to do so. The local Board was left to make decisions on its own and
deal with the judge by itself. The SBE not only refused to answer the Board’s request for
assistance and clarification of the state board policies, they overruled the local Board’s
decision to refuse transfer of white students out of Benton Harbor. Using the same test
criteria as the court, the action of the SBE led to the natural, probable, foreseeable, and
actual results for which they bear considerable responsibility: increased segregation.
Using the test from Keyes, if there is state-supported segregation in a portion of the state,
been more school desegregation cases brought in the state of Michigan than any other state in this country.

Recommendation for further study

In the course of this research several topics have surfaced which deserve treatment in their own right. The problems and complexities of the desegregation question are manifold.

One hypothesis for future study is whether desegregation always places a disproportionate burden on the minority student. Educators generally agree that to change schools or teachers, or to travel by bus for long distances is a burden. In our study, in order to desegregate the schools, the minority students were the ones required to transfer from their neighborhood to another distant school.

Another study, also about school board decisions, might consider boards of education as political institutions responsive to community pressures, and study how this type of pressure affects decision-making on matters pertaining to desegregation. The political power of various groups could be measured or compared. Often pressure is subtle and is applied by silent forces in a community.

Finally, the effects of declining urban school enrollment should be studied. School closings as a desegregation method, and the dilemma of trying to achieve integration in districts which are overwhelmingly black are areas of study. The possible results of these studies may help boards of education and school administrators make responsible decisions.
APPENDIX A

Joint Policy Statement
State Board of Education And
Michigan Civil Rights Commission
On Equality of Educational Opportunity
Joint Policy Statement
State Board of Education And
Michigan Civil Rights Commission
On Equality of Educational Opportunity

In the field of public education Michigan’s Constitution and laws guarantee every citizen the right to equal educational opportunities without discrimination because of race, religion, color, or national origin. Two departments of state government share responsibility for upholding this guarantee. The State Board of Education has a constitutional charge to provide leadership and general supervision over all public education, while the Michigan Civil Rights Commission is charged with securing and protecting the civil right to education.

In addition to the declaration of public policy at the State level, the United States Supreme Court, in the case of *Brown v. Board of Education*, ruled: “that in the field of public education the doctrine of ‘separate but equal’ has no place. Separate educational facilities are inherently unequal.”

The State Board of Education and the Michigan Civil Rights Commission hold that the segregation of students in educational programs seriously interferes with the achievement of the equal opportunity guarantee of this State and that segregated schools fail to provide maximum opportunity for the full development of human resources in a democratic society.

The State Board of Education and the Civil Rights Commission jointly pledge themselves to the full use of their powers in working for the complete elimination of existing racial segregation and discrimination in Michigan’s public schools. It shall be the declared policy of the State Board of Education that in programs administered, supervised, or controlled by the Department of Education, every effort shall be made to prevent and eliminate segregation of children and staff on account of race or color.

While recognizing that racial imbalance in Michigan schools is closely related to residential segregation patterns, the State Board of Education and the Civil Rights Commission propose that creative efforts by individual school districts are essential and can do much to reduce or eliminate segregation. Local school boards must consider the factor of racial balance along with other educational considerations in making decision about selection of new school sites, expansion of present facilities, reorganization of school attendance districts, and the transfer of pupils from overcrowded facilities. Each of these situation presents an opportunity for integration.

The State Board of Education and the Civil Rights Commission emphasize also the importance of democratic personnel practices in achieving integration. This requires making affirmative efforts to attract members of minority groups. Staff integration is a necessary objective to be considered by administrators in recruiting, assigning and promoting personnel. Fair employment practices are not only required by law; they are educationally sound.
The State Board of Education and the Civil Rights Commission further urge local school districts to select instructional materials which encourage respect for diversity of social experience through text and illustrations and reflect the contributions of minority group members to our history and culture. A number of criteria are enumerated in "Guidelines for the Selection of Human Relations Content in Textbooks," published by the Michigan Department of Education.

The State Board of Education and the Civil Rights Commission believe that data must be collected periodically to show the racial composition of student bodies and personnel in all public schools, as a base line against which future progress can be measured. Both agencies will begin next month to assemble information on the present situation.

To implement these policies the State Board of Education has assigned staff of the Department of Education to work cooperatively with the Civil Right Commission and local school authorities for the purpose of achieving integration at all levels of school activity. The Michigan Civil Rights Commission also stand ready to assist local school boards in defining problem areas and moving affirmatively to achieve quality integrated education.

Adopted and signed this twenty-third day of April, 1966.
The State Board of Education on April 23, 1966, adopted a joint policy statement with the Michigan Civil Rights Commission which directed local school boards to consider the factor of racial balance, along with other educational considerations, in making decisions about selection of new school sites, expansion of present facilities, reorganization of school attendance districts, and the transfer of pupils from overcrowded facilities. Each of these situations, according to the policy statement, "presents an opportunity for integration."

The recent decisions of the school districts to address themselves to the issue of racial isolation in schools is encouraging. In an effort to provide equality of educational opportunity, the Detroit Board of Education has taken an initial step to address itself to the many faceted problem of racial segregation and the barriers which it creates. The Detroit plan, with its strengths and weaknesses, is an effort to solve the problem.

The path to equality of educational opportunity is neither smooth nor precisely marked, and merely assigning students to different schools in an effort to bring about racial balance in those schools will be a meaningless gesture unless immediate steps are taken to provide additional services and improved programs to assure a balanced and quality educational attainment as well as a balanced racial composition. Unless this factor is given top priority, school districts addressing themselves to racial integration simply by providing racial balance can probably expect increased rather than decreased tensions. Consequently, the Detroit Board of Education decision will not automatically make the Detroit school system better. However, with the support of students, teachers, and parents, and with the recognition that the decision hopefully represents a step toward quality education for all students, such decisions can be considered fundamental.

Actions taken by Michigan school districts to reduce the harmful educational effects of racial isolation are consistent with the equal educational opportunity position of the State Board of Education. Once such actions are taken by duly constituted authorities, public support is vital to their success. The State Board of Education urges public support of conscientious and constructive efforts to achieve racial integration in the schools.

Adopted May 13, 1970
APPENDIX C

HSIRB Approval Letter
Date: October 4, 2002

To: Douglas Davidson, Principal Investigator
   Tiffany Butzbaugh, Student Investigator for dissertation

From: Mary Lagerwey, Chair

Re: HSIRB Project Number: 02-08-07

This letter will serve as confirmation that your research project entitled “An Historical Analysis of Benton Harbor, Michigan, School Board Decisions between 1967 and 1981” has been approved under the expedited category of review by the Human Subjects Institutional Review Board. The conditions and duration of this approval are specified in the Policies of Western Michigan University. You may now begin to implement the research as described in the application.

Please note that you may only conduct this research exactly in the form it was approved. You must seek specific board approval for any changes in this project. You must also seek reapproval if the project extends beyond the termination date noted below. In addition if there are any unanticipated adverse reactions or unanticipated events associated with the conduct of this research, you should immediately suspend the project and contact the Chair of the HSIRB for consultation.

The Board wishes you success in the pursuit of your research goals.

Approval Termination: October 4, 2003
APPENDIX D

HSIRB Approved Informed Consent Agreement
Informed Consent Agreement

Western Michigan University
Department of Sociology
Principal Investigator: Douglas Davidson (269.387.5285)
Research Associate: Tiffany Loftus Butzbaugh (269.471.5371)

This study is the dissertation project of Tiffany Butzbaugh at Western Michigan University:


I invite you to participate in this study by providing information and/or opinions about the decisions of the Benton Harbor School Board during the years of the study. If you were present during any meetings or discussions that you remember or if you have any documents pertaining to the school decisions, I would appreciate it if you would share these with me. I am trying to obtain as much information as possible about the schools, the community feelings, the newspaper coverage, the school administration, and the school board beginning in 1967. During the next four months I will be gathering information from court records and newspapers, and reading documents relating to this desegregation case. The information I have gathered about the Berry case has been from reading documents and newspaper accounts of the case. An historical analysis of this desegregation case may provide information to people who study race relations, community support of schools, the decisions of school boards, and the relationship between school boards and school administrators.

This study may provide an opportunity for you to express an opinion about this case that you have long wished to express. All information collected from you is confidential. That means your name will not appear on any papers on which this information is recorded. The forms will all be coded and I will keep a separate master list with the names of participants and the corresponding code numbers. Once the data are collected and analyzed, the master list will be destroyed. If I use an audio recording during an interview, that recording will be destroyed after it is transcribed. All other forms will be retained for at least three years in a locked file in the office of Douglas Davidson. I do not know of any risk to you from your participation in this study, but if you anticipate any, please, discuss it with me. Your identity will be confidential. You may choose to withdraw from the study at any time without prejudice, penalty, or risk of any loss of service you would otherwise have.

You may also contact the Chair, Human Subjects Institutional Review Board (269.387.8293). Or you may contact the Vice President for Research (269.397.8298) if questions or problems arise during the course of the study.

You should not participate in this study if the stamped date is over one year old.

_________________________ date __________________________
APPENDIX E

Benton Harbor Area Schools
District’s Letter of Approval for Research
September 9, 2002

To Whom It May Concern:

Ms. Tiffany Butzbaugh has requested permission from the Benton Harbor Area Schools District to conduct a comprehensive research project regarding the matter of *Barbara Jean Berry, et al. v School District of the City of Benton Harbor, et al.* This long-standing Federal Desegregation case was just concluded this past spring.

It is my understanding that Ms. Butzbaugh is completing this research project in completion of her doctoral dissertation. It is my further understanding that Ms. Butzbaugh will be researching documents in the public domain and will be interviewing present and former Board of Education trustees and school officials.

Given Ms. Butzbaugh's standing in the community and her reputation as an educator, she has the complete faith and confidence of this District that her research will be carried out in a professional and scholarly manner.

The Benton Harbor Area Schools District will give its full cooperation to Ms. Butzbaugh with the expectation that she will share her findings with us at the conclusion of her research project.

Sincerely,

BENTON HARBOR AREA SCHOOLS

Rick Garrison
Assistant Superintendent
Instructional Services Division

LEARN * BLOSSOM * GROW
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“March at Berrien County Courthouse.” 3-16-65.

“MI NAACP leaders plan summit sessions here.” 2-12-65.

“NAACP sends notice to BH schools.” 9-23-63.

“NAACP attorney attacks Driker Report.” 2-10-78.

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“Nation’s eyes are on you.” 1-24-70.

“Negroes flare up in night.” 7-3-63.

“Pot mixes without boiling.” 9-1-81.

“Sodus transfer attacked.” 4-20-73.

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