317 F.Supp. 512
United States District Court, S.D. Texas, Houston, Division.

Delores ROSS, a minor, by her Next Friend, Mary Alice Benjamin, et al., Plaintiffs, United States of America, Plaintiff-Intervenor,
v.
Robert ECKELS, as President of the Board of Trustees of the Houston Independent School District, et al., Defendants.

Civ. A. No. 10444.
|
May 30, 1970.

Synopsis

Proceedings seeking adoption of plan as alternative to freedom of choice plan for purpose of creating unitary school system and disestablishing dual school system. The District Court, Connally, Chief Judge, held that equidistant school zoning plan, which involved drawing of zone lines equidistant between adjacent schools, with students required to attend school nearest their home at time of enrollment except for voluntary transfer of student whose race is a majority to another school in which his race is in the minority and transfer in case of transportation hardship or desire to attend vocational courses and under which every Negro child in high school and junior high level would receive his education in an integrated atmosphere, was ordered adopted, as alternative to freedom of choice plan, by school district which had student population consisting of one-third Negro and two-thirds white students.

Ordered accordingly.

Affirmed in part; reversed and remanded in part.

Attorneys and Law Firms

*513 Weldon H. Berry, Houston, Tex., and Conrad K. Harper, New York City, for plaintiffs.

John M. Rosenberg, Washington, D.C., for plaintiff-intervenor.

Brown, Kronzer, Abraham, Watkins & Steely, W. James

Kronzer, Houston, Tex., for defendants.

Opinion

MEMORANDUM AND ORDER:

CONNALLY, Chief Judge.

This is another chapter in the effort presently to create a unitary school system, and further to disestablish the dual school system maintained by the defendant Houston Independent School District prior to 1954. This action was filed in December, 1956. Any number of hearings have been held, and orders have been entered, over the intervening years. Beginning with a one grade per year desegregation plan; followed by an acceleration of this to a two grade per year plan; followed by the integration of athletics and other extracurricular activities; and culminating with the freedom of choice plan[1] presently in operation and initiated pursuant to order of this Court of September 5, 1967, Houston has, in my judgment, come a long way along the road. Substantial integration has been achieved in many areas;[2] and, of almost equal importance, has been achieved without incident or racial confrontation.

To bring what has been done, and what remains to be done, into proper perspective, these facts should be borne in mind. The Houston Independent School District is the largest in the South, and is the sixth largest in the nation. It covers 311 square miles. It has a student population of 238,460, of ***514** which almost exactly two-thirds (66.9%) are white and one-third (33.1%) black. It employs 9,624 teachers, of which approximately two-thirds (68%) are white, one-third (32%) black. It operates 230 schools on 225 campuses,[3] of which 170 are elementary schools, 36 are junior high and 24 are high schools.

Pursuant to a motion by the plaintiffs for further relief, a hearing was held June 14-23, 1969. At that time I found, and so advised the parties, that the incidence of integration, both of faculty and student body, under the present plan did not meet the requirements of the recent cases. (Green v. County School Board of New Kent Co., 391 U.S. 430, 88 S.Ct. 1689, 20 L.Ed.2d 716 (1968); Alexander v. Holmes County Board of Education, 396 U.S. 19, 90 S.Ct. 29, 24 L.Ed.2d 19 (1969); Singleton v. Jackson Municipal Separate School District, 'Singleton

III', 419 F.2d 1211 (5th Cir. 1969). The School Board was directed to devise a new plan and to submit same for consideration by January 1, 1970.[4]

The Board of Trustees of the Houston Independent School District is composed of seven members, all elected. An election was held for members of this Board in December, 1969. Four members of the Board were replaced by the same number of new members. The new Board took office January 10, 1970. Almost immediately the firm of attorneys who had represented the Board during the 14 years of litigation in this matter withdrew from the case, and new counsel—theretofore completely unrelated to this litigation in any fashion— was employed and entered an appearance. The new counsel requested, and was granted, a matter of a few weeks to familiarize himself with the litigation. At the request of new counsel, the defendant Board has hastily prepared detailed student locator maps showing the residence, race[5] and grade standing of each of the almost one-quarter million students in the School District. Thus, now, for the first time, one may forecast accurately the effect of any new plan of integration which may be invoked.

The opinion of the Supreme Court in Green, supra, and of the Court of Appeals for the Fifth Circuit in Singleton, supra, have been cited in cases too numerous to mention as furnishing the criteria which a school district is required to meet to establish the desired 'unitary' system. The conversation involves the merger of faculty and staff, students, transportation, services, athletics and other extracurricular school activities (Singleton, supra, and Ellis v. Board of Public Instruction of Orange County, Florida, 423 F.2d 203 (1970). There is no controversy here except as to the means to be used for increased student integration. While the integration of faculty and staff today does not meet the two-thirds white— one-third Negro ratio required by Singleton, the defendant Board recognizes its obligation in this respect and does not contest the issue.
In all other respects (transportation, services, facilities, athletics and other extracurricular school activities), the defendant Board is presently in compliance with the Green and Singleton requirements.[6]

The only question which remains is that of student integration. The question is not easily resolved. Few meaningful guidelines have been established ***515** by the appellate courts. In the great majority of cases, without saying what is required, the appellate courts have simply said to the District Court, 'This is not enough.' (See the opinion of Judge Coleman, dissenting in part, in Singleton

v. Jackson Municipal Separate School District, 425 F.2d 1211 (5th Cir. en banc. January 21, 1970).

In approaching the problem I consider it to be the duty of this Court to adopt a plan which will serve realistically (a) to bring about now a high degree of overall student integration, (b) to assure that every student, if not receiving his education in an integrated atmosphere today, soon will do so, and (c) to do this in a manner which is consistent with good education, good administration, and with sound economic practices.

Presently there are seven plans before the Court for consideration. They will be denominated hereafter as follows:

1. The plaintiff's plan;

2. The Intervenor (U.S.) or the Stolee plan;

3. The Ted-Tac plan;

4. The freedom of choice plan;

5. The neighborhood zoning plan;

6. The equi-distant attendance plan; and

7. The geographic capacity plan.

Numbers 4 and 5 were filed herein December 31, 1969, by the outgoing (1969) School Board. Numbers 6 and 7 have been recently filed by the new (or 1970) School Board. The plans will be briefly summarized hereafter.

1. THE PLAINTIFF'S PLAN.

This is a computerized scheme composed by a Computer Center in Boston, Massachusetts, whose services were availed of by the National Association for the Advancement of Colored People Legal Defense Fund.[7] It is based upon the premise that the law requires that every school in the District shall have the same ratio of white to Negro students as prevails throughout the District. For practical purposes plaintiff's counsel concedes that some margin must be allowed, and suggests that this margin should be no more than 10% Above or below. Thus every school would have a ratio of white to Negro students ranging from 57% White— 43% Negro to 77% White— 23% Negro.

Further recognizing the realities of the situation, however, the computerized plan does not go this far, by reason of

the admittedly prohibitive costs involved. The plan as submitted would result in no school having a student body in excess of 50% Negro. In light of the geographical size of the District and the residential patterns which prevail, to accomplish this result would require the daily busing of an estimated 44,000 students, approximately 34,000 white and 10,000 Negro. The plan is designed to restrict the maximum haul to a distance of 10 miles from the home of any student, and as not to overtax the capacity of any given school.

The plaintiff's witness estimates the annual and recurring cost of the busing at the figure of $1,100,000. Witnesses for the defendant Board have estimated that an initial capital outlay for new equipment would come to $2,800,000, with a recurring annual expense of $1,300,000.

If the premise on which this plan is based is accepted, then plaintiff's plan affords a reasonably efficient way to achieve this result.

I am unable, however, to accept this premise. The overall educational process— the assurance that a high school graduate will have received a full and well-rounded education— involves a great deal more than the body count at the schools which he attended. The one million plus dollars admittedly required annually to implement the plaintiff's proposal can be ***516** better spent in providing more and better teachers, newer and more efficient schools and other facilities than in increasing ever so slightly the Negro-to-white ratio in a few specific schools. There are better ways of accomplishing comparable and acceptable results.

The mass busing procedure raises more problems than it solves. In a hypothetical situation, which would arise many times under the plaintiff's proposal, a black child who lives two blocks from School A, a predominantly black school, is to be bussed, together with 50% Of his schoolmates, to School B, a predominantly white school, ten miles away; and 50% Of the students at School B are to be bussed the same ten miles in the opposite direction. The plaintiff's plan is silent as to how the black children who are to be required to go, no doubt against the will of many of them, should be chosen. Are the school authorities to set up some draft system, with deferments based on hardships or other valid considerations? Are the names of those to fill the quota to be drawn in public from a goldfish bowl? Is provision to be made for a review procedure, with ultimate appeals to the courts?[8]

The hypothetical child who is thus transported against his wishes will be deprived of many educational opportunities. He will be unable to participate in athletics, in dramatics, or in the band for he will be unable to remain after school to practice and participate in these activities. His bus would leave without him. This result would discourage the integration of athletics and other activities commanded by Singleton and adopted many years ago by the Houston School District, for only those resident within a close proximity to the school might participate.

Our hypothetical student well might say to the Superintendent of Instruction, 'You are excluding me from School A, two blocks from my home, because I am black, and for no other reason. How can you do this when the Supreme Court of the United States in its latest pronouncement on the subject[9] imposes on you the duty 'to operate as (a) unitary school systems within which no person is to be effectively excluded from any school because of race or color'? ' I would be interested to know how this question would be answered.

No supreme Court decision, and no other controlling authority with which I am familiar, requires that a predetermined ratio be established, and children bussed from distant areas to meet these quotas. I am unalterably opposed to such procedure and would impose this upon the School District only if specifically required to do so by order of a higher court.

2. THE INTERVENOR'S (UNITED STATES OF AMERICA) PLAN.

The proposal of the United States is based on the testimony of Dr. Michael J. Stolee, Director of the Florida School Desegregation Consulting Center. While it is not complete in several respects,[10] nevertheless the proposal shows a thoughtful consideration of the problems of the Houston District. The plan includes a combination of the principles of zoning, pairing, and busing. The ***517** zones, of course, are gerrymandered to increase the integration factor.

As I interpret the plan and projected figures, the results may be summarized as follows:

(a) With respect to the senior high schools, zoning is used exclusively. A child would be required to travel a maximum of five miles to reach school. The proposal would eliminate all-black high schools. One all-white high school would remain. Most of the high schools would have a white population varying from approximately 30 to 60%.

(b) With respect to the junior high schools, zoning again is used with a single exception, where pairing is employed. Again the plan would eliminate the all-Negro junior high. Three all-white junior highs would remain. In general, the white population of the others would be approximately 50 to 70%.

(c) With respect to the elementary schools, of course, the problem is more complex because of the large number of students concerned and of the fact that by reason of their tender years any extended travel is undesirable. Under the Stolee plan, 27 elementary schools are zoned and 51 are paired. The plan contemplates that the children would walk to the school nearest their homes from which point they would be bussed to the school with which it is paired. This, however, would leave approximately 15 all-black elementary schools. The plan recommends that busing be utilized to eliminate this condition. The number of students to be bussed under this proposal, the distances which they would be transported, and the expense thereof do not appear in the evidence.

This plan is too incomplete to be accepted in its present form. Other more attractive proposals are available.

3. THE TED-TAC PLAN

The Texas Educational Desegregation Technical Assistance Center is an agency funded by the Department of Health, Education and Welfare at the University of Texas to offer assistance to various interested parties with problems in its field. At the hearing in July, 1969, the School Board was directed to seek the assistance and advice of this agency ('Ted-Tac') in framing its (the Board's) new proposal which was to be filed January 1, 1970. The Board states that there was no consultation; rather that the Ted-Tac staff visited the various schools in the District and received a mass of information from the Board's files; and thereafter drafted its own plan without regard to the Board's desires, and after consultation only with the officials of HEW. Hence, the defendant Board does not espouse or endorse the plan. In the later stages of this proceeding, the Government has supported it. In general, it is much like the Stolee proposal.

The purpose was to make all schools majority white, although without an effort to achieve the precise white-black ratio which was the aim of the plaintiff's plan.

This plan, again, is based primarily on zoning and pairing. There would remain, however, 13 essentially all-black elementary schools. The solution recommended for the elimination of this result is the pairing of these with 13 unidentified predominantly white schools. The available white bodies in the vicinity of these 13 schools, however, are already put to use elsewhere to integrate other predominantly black schools. Hence, each of these 13 schools would of necessity be paired with a predominantly white school a great distance away. Thus, the recommended solution again is a cross-town busing plan, though much less extensive than that proposed by plaintiff. It is suggested that use be made of the extensive freeway systems of this city to provide rapid transportation for the great distances involved. There is no evidence before me as to the number of students to be bussed or the cost thereof.

*518 At the time the proposal was submitted in July, 1969, the plan was incomplete and the results to be contemplated could not be determined with any degree of certainty with respect to many of the schools. Since preparation of the pupil locator maps, however, counsel for the Government has made additional calculations which in large measure fill these gaps.

As I understand these results, they will be essentially as follows:

With respect to the high schools, there will be no all-Negro schools, and no all-white schools.

There will be no high schools with less than 50 white students, and two with less than 50 Negro students.

There will be no high schools with less than 100 white students, and two with less than 100 Negro students.

With respect to the junior high schools, it appears that there will be no all-Negro junior highs; four all-white junior highs.

There will be no junior highs with less than 50 white students, and 6 with less than 50 Negro students.

There will be no junior highs with less than 100 white students, and 7 with less than 100 Negro students.

With respect to the elementary schools, the results will be these. Two all-Negro elementary schools will remain, 24 all-white elementaries.

There will be 6 elementary schools with less than 50 white students, and 47 with less than 50 Negro students.

There will be 9 elementary schools with less then 100

white students, and 49 with less than 100 Negro students.

As stated above, there will remain the cross-town busing with respect to 13 predominantly Negro elementary schools paired with 13 predominantly white elementary schools.

Ted-Tac does not limit its recommendation to the desegregation factor. It recommends the closing of certain schools and a change in designation of others because of their curriculum. It is suggested, 'There is no way for the students in these small high schools to receive a comprehensive course offering due to the limited enrollment.' I consider the choice of curriculum to be within the discretionary province of the School Board and no part of the present controversy.

4. FREEDOM OF CHOICE PLAN.

This is a proposal of the 1969 School Board and simply urges that the present plan of freedom of choice be maintained. The Court indicated in July, 1969, that this course might not be followed. This was so because, in view of the size of the District, the residential patterns, and the obvious desire of parents that their children attend the school nearest their home, it did not appear that the degree of integration required by law would be attained within the foreseeable future.

The present composition of the schools under freedom of choice is as follows: Of the 24 high schools, 3 are all-Negro, but with an additional 4 having less than 5 white students. There are no all-white high schools. Seven of the high schools have less than 50 white students, and 6 have less than 50 Negro students. Seven high schools have less than 100 white students, and 12 have less than 100 Negro students.

With respect to the 36 junior high schools, 4 are all-Negro and an additional 4 have less than 5 white students. There is one all-white junior high. There are 11 junior highs with less than 50 white students and 13 with less than 50 Negro students. There are 11 with less than 100 white students, and 14 with less than 100 Negro students.

Of the 170 elementary schools, 26 are all-Negro, with an additional 11 having less than 4 white students. There are 40 all-white elementaries. There are 43 elementary schools with less than 50 white students, and 92 with less than 50 Negro students. There are 48 elementary schools with less than 100 white students, and 100 with less than 100 Negro students

Looking at the same figures from a different approach, the percentage of *519 Negro students attending schools with 50 or more white students is as follows: In the high schools, 10.1%; in the junior high schools, 18.8%; and in the elementary schools, 26.6%.

The percentage of Negro students attending school with at least 100 white students is as follows: In the high schools, 10%; in the junior high schools, 18.8%; and in the elementary schools, 21.4%.
 As indicated in the earlier paragraphs hereof, by reason of the large number of all-Negro or essentially all-Negro schools and of the low overall instance of integration, I am of the view that these results are insufficient.

5. NEIGHBORHOOD ZONING PLAN.

This is another alternative proposed by the 1969 School Board and filed December 31, 1969. It would zone the elementary, junior high, and high schools in the District, and is designed to achieve a higher degree of integration. Insofar as I can determine, there is no systematic scheme or plan followed in the designation of these zones. Natural barriers, hazardous crossings, and school capacities are considered.

The results under this zoning plan are as follows. With respect to the 24 high schools, there would be no all-black high schools, two all-white. There would be one high school with less than 50 white students, and 6 with less than 50 blacks. There would be two high schools with less than 100 white students, 9 with less than 100 blacks.

With respect to the 36 junior high schools, 5 would be all-white, none all-black. Two of the junior highs would have less than 50 white students, 10 less than 50 Negro students. Two would have less than 100 white students, and 14 less than 100 Negro students.

With respect to the 170 elementary schools, 52 would be all white, 4 all Negro. Twenty-eight would have less than 50 white students, 95 would have less than 50 Negro students. Thirty-four would have less than 100 white students, 100 would have less than 100 Negro students.

6. THE EQUI-DISTANT ZONING PLAN.
This is a proposal advanced by the new or 1970 School Board. Admittedly, it is patterned very closely after the plan approved by the Court of Appeals for the Fifth Circuit for the Orange County, Florida, School District in Ellis v. Board of Public Instruction of Orange County, Florida, February 17, 1970, 423 F.2d 203. In that opinion

the Court noted that the size of the District magnified the Board's problem. Many characteristics of the Orange County District are similar to those of Houston.[11]

This plan contemplates that the District will be zoned (separately, of course, for high school, junior high and elementary schools) drawing the zone lines exactly equi-distant between the adjacent schools. Each student is required to attend the school nearest his home at the time of enrollment— and to remain in that school for the ensuing semester, regardless of a later change of residence. Where the capacity of a school would be exceeded by this method of determining the composition of its student body, the geographic area to be served by such school would be decreased (and that of the neighboring school increased) by narrowing its boundaries, with a line or lines parallel to those originally proposed; ***520** and in every case effecting the change where one is necessary in a manner which will increase the integration factor.[12] The only exception to the requirement that a student attend the school closest to his home would permit the voluntary transfer of a student whose race is in the majority to another school in which his race is in the minority, with these options:

(a) If such student chooses the nearest school in which his race is in the minority, he is afforded automatic admission despite the capacity of the school (i.e., he is permitted to 'bump' a student of the opposite race) and he is afforded free transportation from his home;

(b) If such student prefers any other school in the District in which his race is in the minority, he may attend on a 'space available' basis, and if he furnishes his own transportation.

Under this plan[13] there will be no all-Negro high schools and one all-white high school.

There will be no high schools with less than 50 white students, and 6 with less than 50 Negro students.

There will be no high schools with less than 100 white students,[14] and 8 with less than 100 Negro students.

There will be no all-Negro junior highs and 2 all-white junior highs.

There will be no junior high schools with less than 50 white students, and 8 with less than 50 Negro students.

There will be one junior high school with less than 100 white students, and 12 with less than 100 Negro students.

Of the 170 elementary schools, 4 will be all-Negro and 51 all-white.

There will be 19 elementary schools with less than 50 white students, and 87 with less than 50 Negro students.

There will be 28 elementary schools with less than 100 white students, and 98 with less than 100 Negro students.

To look at these anticipated results solely from the standpoint of the Negro student, there will be no high schools with a Negro student population exceeding 90%; and only 2 wherein 70% Is exceeded. These two (Kashmere and Yates) show a combined Negro-white population of 2,831-409, respectively. Thus, 32% Of the Negro high school ***521** students will attend schools with a Negro population exceeding 70%; and none exceeding 90%.

At the junior high school level, one School (Ryan) will have an anticipated Negro student population in excess of 90%— 1,781 Negro, 93 white, or 94.5% Negro. Thus, 11% Of the total Negro junior high school students will attend school with a population exceeding 90% Negro.

Comparable comparisons for the 170 elementary schools have not been submitted by the parties.

7. GEOGRAPHIC-CAPACITY ZONING PLAN.

This is a second plan filed and urged by the 1970 School Board. It is closely patterned after the plan approved by the Court of Appeals for the Fifth Circuit in Bivins v. Bibb County Board of Education, February 5, 1970, 424 F.2d 97.

Under this plan a zone is drawn around each school in a non-discriminatory manner, with the size of the zone determined and measured by the capacity of the school. Once the zone is determined for a given school year, every student residing within that zone must attend such school, subject to the majority-to-minority transfer rule required by Singleton.

The plan contemplates that in the delineation of the zone lines consideration might, and should, be given to questions of natural boundaries, traffic hazards and pupil density.

The results under this zoning plan are as follows. With respect to the 24 high schools, there would be no all-Negro high schools, and one all-white. There would be no high school with less than 50 white students, and 2

with less than 50 Negro students. There would be no high school with less than 100 white students, and 8 with less than 100 Negro students.

With respect to the 36 junior high schools, none would be all-Negro, and 4 would be all-white. None of the junior high schools would have less than 50 white students, and 10 would have less than 50 Negro students. None of the junior high schools would have less than 100 white students, and 12 would have less than 100 Negro students.

With respect to the 170 elementary schools, 4 would be all-Negro, and 46 would be all-white. Thirteen elementary schools would have less than 50 white students, and 86 would have less than 50 Negro students. Twenty-nine would have less than 100 white students, and 99 would have less than 100 Negro students.

Again, looking at the figures only from the standpoint of the Negro student, no high school will have a Negro population exceeding 90%, and only two exceeding 70% (Kashmere, 83%; and Yates, 79%). Thus, 32% Of the Negro high school students will attend schools with a Negro population exceeding 70%; and none exceeding 90%.

At the junior highs school level there will be no junior high school with a Negro population exceeding 90%.

Of the seven alternatives discussed above, several may be rather summarily dismissed.

With respect to the plaintiff's plan, the inordinate expense which it would entail and the very legitimate complaints, both practical and legal, which might be interjected by the 44,000 students to be transported render it completely inappropriate.

With respect to the Intervenor or Stolee plan (No. 2), it is incomplete. Insofar as comparisons are possible, it appears to follow the same approach, and achieve the same results as the No. 3, or Ted-Tac, plan. If it came to a choice between these two, I would be inclined to leave the choice to the defendant School District.

The freedom of choice plan (No. 4) has been administered fairly and completely without discrimination by the defendant **522 District for several years. Literally, any child who was unhappy with his original school assignment could enroll in any school of his choice simply by appearing at the schoolhouse door on the enrollment date. Such a scheme has much to commend it in theory; but it is condemned by recent authorities because it does not achieve a sufficiently high incidence of integration. For that reason, it cannot be further considered here.

The 'neighborhood zoning plan' (No. 5) advocated by the 1969 School Board is not now urged or endorsed by any of the parties to the suit. While it increased the incidence of integration to some extent, it did not do so as effectively as the plans to be discussed hereafter.

There remain the Ted-Tac plan or, its counterpart, the Stolee plan, and the two plans submitted and equally endorsed by the Board. All three achieve a high degree of integration and, when coupled with the other requirements of Singleton discussed above, in my judgment will achieve a clearly unitary system.

Of the three, I am of the view that the equi-distant plan will best serve the needs of the student body, and will afford as uniformly a fair and nondiscriminatory school assignment plan as well may be devised. In accepting this plan, I am mindful of the admonition contained in the Ellis opinion, and reiterated in Andrews v. City of Monroe, 425 F.2d 1017 (5th Cir. 1970), and in Singleton IV (Singleton v. Jackson School District, 426 F.2d 1364 (5th Cir. 1970)) that the Ellis neighborhood assignment plan is not necessarily the final answer for all large Southern school districts. It is not to be followed blindly. In my judgment, however, it not only creates a completely unitary system, but offers advantages not otherwise available.

It is true that the Ted-Tac proposal gives a slightly higher incidence of integration than do the equi-distant and geographic capacity plans, which are, for all practical purposes, the same in this respect. A shorthand comparison of the integrational effect of these three, with the present freedom of choice plan, upon the Negro student, is reflected in the following table:

Freedom of Choice	Ted-Tac	Equi-Distant	Geographic Capacity

High Schools

All Negro	3	0	0	0
Less than 50 whites	7	0	0	0
Less than 100 whites	7	0	0	0

Junior High Schools

All Negro	4	0	0	0
Less than 50 whites	11	0	0	0

Less than 100 whites	11	0	1	0

Elementary

Schools

All Negro	26	2	4	4
Less than 50 whites	43	6	19	13
Less than 100 whites	100	9	28	29

[A 2694]

The Ted-Tic proposal with the zoning, pairing and cross-town busing is attended with many disadvantages which to my mind outweigh the slight increase in

integration. The pairing of many schools of necessity will cause a disruption of the present grade structure and the initiation of a new curriculum. It will require the reassignment of many teachers and almost all students. Without the cross-town busing feature of the 'non-adjacent pairing,' 13 predominantly all-black elementary schools would remain. Cross-town busing is objectionable in any event. Certainly that is true when applied entirely to children of elementary school age.

The geographic zoning plan offers an attrative solution. It offers a complete integration at both the high school and junior high school levels, and a high incidence with respect to the elementary schools. It is not unnatural for the defendant District to take cognizance in its zoning plan of natural boundaries, traffic hazards, and other such considerations. As is pointed out in Ellis, supra, however, it is this very factor of discretion in the drawing of the lines which renders such a plan suspect. No matter how high the integration factor under a plan drawn without strict guidelines, the ***523** contention can always be advanced that such lines might have been drawn differently, and with a better result. In short, while I am convinced it is not the case in the present instance, whenever a School Board draws its zone lines today in a discretionary fashion, it is subject to being charged with doing so to continue its dual system.

This leaves the equi-distant zoning plan. It is completely fair and impartial. Every child attends the school closest to his home. It will reduce travel to a minimum. It is non-discriminatory in all but one respect, namely, where changes have been made to accommodate school capacities, they have been made in such fashion as to increase integration. Every Negro child at the high school and junior high school level will receive his education in an integrated atmosphere. The four all-Negro elementary schools will have student bodies as follows:

	Race		
	Black	**White**	**Unknown**
Douglas	737	0	12
Henderson, N.Q.	570	0	3
Pleasants	530	0	6
Pleasantville	977	0	0

[A 2695]

If it be assumed that the 'unknowns' are all black, the total of 2,836 Negro students attending all-black schools is only 6% Of the Negro elementary school total, or 3.9% Of the overall Negro total. These four schools are located within sizable areas of high density Negro population. Their composition as all black, as is true of the all white student bodies, results from the city's residential patterns.[15] These four all-Negro elementary schools cannot be substantially integrated at this time without a program of crosstown busing.[16]

These children, however, are not condemned to a segregated public school education. At worst, this condition will only continue through elementary school. At best, it may be corrected immediately, at the desire of any child so affected, who may transfer, and ride free of charge, to the nearest school in which his race is in the minority. Thus every Negro child has the opportunity for an integrated education today— the vast majority simply by attending the school nearest his home. Those elementary students who do not have it, and do not desire it today, will have it forced upon them at the junior high and high school levels. They will receive such education from a completely integrated faculty and staff.

In the presentation of this plan, as well as in Ellis upon which it is patterned, no mention is made as to whether, in drawing the equi-distant lines between schools, account is taken of impassable obstacles.[17] From my examination of Ellis and of the evidence offered here, I am of the view that in both instances the distances are taken 'as the crow flies.' In approving the equidistant plan, I do so with this reservation, based on the following facts. Buffalo Bayou winds its tortuous way through the city and the School District area until it reaches the Turning Basin, from which point eastward it becomes the Houston Ship Channel. Of course, it may be crossed only where bridges are available. In **524** many instances these are many miles apart. A freeway system encircles and crosses the city. These freeways may be crossed only where underpasses are provided for vehicular and pedestrian traffic. If the school closest to a child's residence is one-half mile away, but on the opposite side of Buffalo Bayou; and it may be reached only by a travel of 6 or 7 miles, it seems foolish to require attendance at that school if there be another perhaps a mile from his residence in the opposite direction. A child is not required to swim or to fly to school. I am unable to determine the frequency with which this problem will present itself. It may be in some cases that the lines need be redrawn. More likely it can be surmounted by transfers on an individual basis.

Further, with respect to transfers, this additional observation is in order. By what has been said heretofore with reference to allowing transfers only under the majority-to-minority rule, it is not intended to deny the School Board the authority to effect transfers for entirely legitimate reasons. Physically handicapped children, mentally retarded children, highly gifted children, those who seek vocational courses, and other special course students, should be permitted to attend those schools offering appropriate facilities and courses. It goes without saying that all such transfers will be on a non-discriminatory basis.

Under this equi-distant proposal, every advantage of the neighborhood school is retained. The plan is economically and administratively sound. Additionally, the commands of Brown I[18] and of Alexander, supra, are fully met. In its assignment policy, the School District will be as color-blind as it is possible to be, still achieving a high degree of integration; and no child will be effectively excluded from any school because of race.

Counsel for the defendant Board will prepare an order instituting the equidistant zoning plan for the assignment of students, referred to herein as Plan 6, essentially as described in Ellis, supra, and with such modifications as are directed above. This plan for the assignment of students will be effective the beginning of the September, 1970, school session.

The order further will provide that principals, teachers, teacher's aides, and other staff who work directly with children shall be assigned in every school in such manner that the ratio of white-to-Negro teachers and staff in that school shall vary no more than 5%, above or below, from the ratio of white-to-Negro teachers and staff throughout the District (presently 68% White— 32% Negro). I am advised that within recent months the faculties of the various schools have been so assigned as greatly to increase the integration factor. This will be continued and accelerated until such time as the ratios above set out are met; and at no event later than the beginning of the September, 1970, term.

The order will further include the provisions required in Singleton III, supra, with reference to the transportation system, school construction and site selection, location of temporary classrooms and other matters designed to promote integration.

The order will further provide for the appointment by the Court of a bi-racial committee of local citizens of ten members to be charged with the responsibility of investigating, and consulting and advising with the School Board periodically, with respect to all matters tending to promote the operation of a unitary system as ordered in Ellis, supra, and in Singleton IV, supra.

The order will further provide that this Court will retain jurisdiction for a reasonable time to insure that the system is operated in a constitutional manner.

Attached hereto as appendices are charts showing the number of schools with the indicated ratio of white-to-Negro students under various proposals; and the anticipated student population, by race, under the plans discussed.

Senior High

% Negro	Equidistant	Capacity [1/]	Tedtac [2/]	Stolee [3/]
0 - 10.0	11	9	5	8
10.1 - 20.0	2	2	3	2
20.1 - 30.0	1	4	2	0
30.1 - 40.0	2	0	2	3

40.1 - 50.0	2	2	4	3
50.1 - 60.0	1	3	3	3
60.1 - 70.0	3	1	1	4
70.1 - 80.0	0	1	0	0
80.1 - 90.0	2	1	0	0
90.1 - 100	0	0	0	0
	24	23	20	23

SENIOR HIGH

% Negro	Equidistant		Capacity		TEDTAC		STOLEE	
	N	W	N	W	N	W	N	W
0 - 10	684	19410	418	14686	563	12456	818	17339
10.1 - 20	385	2917	638	4397	1339	7430	672	2932
20.1 - 30	314	920	1609	5347	870	3008	0	0
30.1 - 40	1129	2053	332	416	1306	2430	1538	3222
40.1 - 50	739	975	981	329	2819	3468	2225	2747
50.1 - 60	1228	94	2430	1672	3235	2731	2384	2481

60.1 - 70	1392	701	458	194	1524	879	3421	2962
70.1 - 80	0	0	1773	359	0	0	0	0
80.1 - 90	2831	409	1448	286	0	0	0	0
90.1 - 100	0	0	0	0	0	0	0	0
	8702	27,479	10,087	27,686	11,656	32,402	11,058	31,683

SENIOR HIGH

		EQUIDISTANT		CAPACITY		TEDTAC		STOLEE
SCHOOL	**Tot.**	**% neg.**	**Tot.**	**% Neg.**	**Tot.**	**% neg.**	**Tot.**	**% Neg.**

	Stud.		Stud.		Stud.		Stud.	
Austin	1598	7.0	1938	20.0	2109	31.4	1873	43.3
Bellaire	3143	0	2653	.04	3467	6.4	2982	0 [1]
Bellaire Relief	1907	.4	1869	.9	-		[1]	[1]
Davis	1621	34.0	1419	22.0	2045	43.6	1771	51.3
Furr	955	41.6	977	54.0	1030	44.6	975	36.0 [2]
Sam Houston	3199	5.0	3343	12.0	3220	17.7	2814	18.5
J. Jones	1680	35.0	1801	13.0	2287	23.1	2188	30.5
Cashmere	1875	85.0	1753	83.0	1950	56.3	1584	63.4
Lamar	2098	1.0	2121	3.0	2284	.3	1480	4.9
Lee	1740	4.0	2157	4.0	2489	5.1	1730	.1
Lincoln	772	44.0	753	44.0	--	[3]	663	44.3 [2]

Madison	1008	5.0	1732	3.0	1591	21.4	1592 32.2
Milby	2517	6.0	1732	1.5	2388	8.1	2596 8.0
Reagan	1698	11.0	1932	26.0	2769	15.8	2341 8.2
San Jac.	604	63.0	-	--	1644	43.8	2437 45.3
Scarbrough	726	4.0	730	3.9	-	3/	3/
Sharpstown		3/		3/		3/	796 8.9 2/
Sterling	1672	12.0	1862	21.0	1627	39.3	2031 3.1
Waltrip	1930	4.0	2579	5.4	2790	11.8	2577 9.4
D. T. Washington	806	68.6	700	58.5	1568	47.6	1233 52.5
Westbury	2323	1.0	1595	0	2391	.6	2219 1.8
Wheatley	1248	25.0	2124	54.3	2356	51.2	1862 52.8
Williams	735	62.0	693	66.0	-	4/	1368 66.1
Worthing	2096	58.0	1984	49.0	1660	56.6	1876 69.9

Yates	1429	86.0	2240	79.0 2403	63.4	2555 63.9

Junior High

% Negro	Equidistant	Capacity	Tedtac [1]	Stolee [2]
0.0 - 10.0	17	16	9	11
10.1 - 20.0	1	1	5	5
20.1 - 30.0	4	5	4	2
30.1 - 40.0	1	0	3	4

% Negro	Equidistant	Capacity	Tedtac	Stolee
40.1 - 50.0	1	2	5	5
50.1 - 60.0	0	0	1	2
60.1 - 70.0	1	3	3	1
70.1 - 80.0	4	4	2	2
80.1 - 90.0	6	5	3	3
90.1 - 100	1	0	0	0
	36	36	35	35

JUNIOR HIGH

	N	W	N	W	N	W	N	W
0 - 10	1014	26653	772	25833	499	17316	653	21254
10.1 - 20	249	1144	293	1275	1529	7602	2690	4842
20.1 - 30	1335	4684	1813	5563	2161	6448	1016	2833
30.1 - 40	252	405	0	0	2290	3915	1873	3296
40.1 - 50	692	944	1609	1729	3324	4512	3272	3669
50.1 - 60	0	0	0	0	1493	1145	1468	2059
60.1 - 70	739	380	2134	1145	2047	1097	1120	707
70.1 - 80	3507	1043	2761	716	3032	889	1478	3447
80.1 - 90	7642	998	7293	1166	4216	695	4241	773
90.1 - 100	1781	93	0	0	0	0	0	0

| 17,211 | 36,344 | 16,675 | 37,427 | 20,591 | 43,619 | 17,811 | 42,880 |

JUNIOR HIGH

SCHOOL	Total Student	% Neg.	Revised Equidistant Tot. Stud.	% Neg.	Capacity Tot. Stud.	% Neg.	Stolee [1] Tot. Stud.	Tedtac % Neg.
Attucks	1359	89.7	1555	83.0	1827	60.9	1599	85.6
Black	1817	3.0	2248	2.0	2294	55.5	2366	27.8
Burbank	1727	12.3	1593	27.0	1825	28.6	1620	23.7
Cullen	2036	73.0	1819	64.0	1749	48.0	2175	77.1
Deady	2402	5.7	2366	4.4	2338	5.3	2401	5.8

Dowling	1865	7.0 1697	7.0 1589	3.4	2336	19.5
Edison	1444	8.9 1305	0 1418	13.3	1454	13.7
Fleming	1069	73.2 952	79.0 971	45.1	1068	49.9
Fondren	1805	1.2 1873	1.0 2021	2.8	1832	0
Fonville	1458	9.7 1294	22.0 1661	18.2	1485	21.1
Furr	1150	64.0 1448	45.0 975	36.0 [2]		
					1192	39.4
Hamilton	1455	17.1 1733	17.0 1843	8.8	1959	32.7
Hartman	2344	5.2 1723	2.0 2627	5.1	2400	18.5
Henry	1224	.3 1177	.3 1556	34.2 [3]		
					1622	16.1
Hogg	988	5.8 1315	12.0 1150	14.2	1310	14.2
Jackson	1353	2.8 1603	7.0 1779	38.2	1528	43.7
Johnston	2506	0 2281	2.0 2868	0	2723	1.2

Key	2140	85.6	1816	84.0	2511	75.2	2229	64.3
Lanier	1504	.6	1252	2.0	1468	19.7	1589	5.8
Lincoln	662	38.0	575	72.0	662	44.3 [2/]		
							1101	59.6
Long	1598	3.4	1354	.1	1660	0	1526	0
Marshall	1587	23.9	1707	20.0	1616	44.6	1846	39.7
McReynolds	1758	24.6	1936	26.0	1942	49.5	2202	41.6
Miller	838	80.0	1159	79.0	1245	84.9	1224	82.4
Pershing	1738	0	2016	0	2257	0	2119	0
Rogers	1403	0	1908	2.5	1973	.1	1903	0
Ryan	1884	94.5	1808	88.0	1882	82.0	1746	77.7
Scarbrough	1058	1.4	815	0	1658	0	1149	2.6
Sharpstown	2037	5.0	2372	4.0	796	18.9 [2/]		
							2573	7.8

Smith, E. O.	1699	87.0	1952	85.0	2017	73.2	2088	87.3
Terrell	983	81.8	859	78.5	854 [4]			
						35.9	915	67.0
Thomas	1687	41.0	1904	44.6	2024	24.4	2325	29.7
Washington, B. T.	1049	84.9	964	60.0	1232	52.5 [2]		[5]
Washington, G.	1075	28.9	1058	24.0	1036	8.4	995	29.9
Williams	736	76.6	649	61.0		[6]	1208	36.8
Woodson	1627	88.0	1525	80.0	1887	87.3	1537	54.5

ELEMENTARY SCHOOL

% Negro	Equidistant	Capacity	Tedtac [1]
-------			
0 - 10	92	94	51
10.1 - 20.	10	6	7
20.1 - 30.	5	4	6
30.1 - 40.	4	6	37
40.1 - 50.	2	4	44

50.1 - 60.	8	4	9
60.1 - 70.	1	6	2
70.1 - 80.	13	9	3
80.1 - 90.	8	12	4
90.1 - 100	27	25	7
	170	170	170

ELEMENTARY SCHOOL

% Negro	Equidistant		Capacity		Tedtac [1]	
	N	W	N	W	N	W
0 - 10	905	73480	1056	79208	529	44906
10.1 - 20	1101	6423	508	2854	564	3251
20.1 - 30	661	2131	615	1683	845	2745
30.1 - 40	1043	1797	1523	2586	9035	15980
40.1 - 50	1450	1800	1239	1408	17655	21405
50.1 - 60	3549	2730	2317	1557	3756	3432
60.1 - 70	542	250	2583	2403	934	601

70.1 - 80	9255	2893	5844	1699	2130	620
80.1 - 90	6930	902	10651	1542	3382	501
90.1 - 100	20522	802	21559	681	6665	237
TOTAL	46,048	93,208	47,895	95,591	45,495	93,678

EQUI-DISTANT PLAN

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(1) Black students attending schools not included in the "90.1 - 100%" black student range

Senior High: 8,702 of 8,702 or 100%

Junior High: 15,430 of 17,211 or 89%

Elementary:	25,526 of	46,048 or	55%
Total:	49,658 of	71,961 or	68%

(2)   Number of schools in the "90.1 - 100%" black student range

Senior High:	0
Junior High:	1
Elementary:	27

GEOGRAPHIC CAPACITY PLAN

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(1)   Black students attending schools not in the "90.1 - 100%" black student range

Senior High:	10,087 of	10,087 or	100%
Junior High:	16,675 of	16,675 or	100%

Elementary:	26,336 of	47,895	or	54%
Total:	53,098 of	74,657	or	71%

(2)   Number of schools in the "90.1 - 100%" black student range

Senior High: 0

Junior High: 0

Elementary: 25

HOUSTON INDEPENDENT SCHOOL DISTRICT

GEOGRAPHIC CAPACITY PLAN

SENIOR HIGH

SCHOOL	NEGRO	WHITE	UNKNOWN	TOTAL

AUSTIN	393	1517	28	1938
BELLAIRE	1	1551	1101	2653
BELLAIRE RELIEF	17	1493	359	1869
DAVIS	319	1079	21	1419
FURR	534	438	5	977
HOUSTON, SAM	397	2907	39	3343
JONES, J.	241	1490	70	1801
KASHMERE	1448	286	19	1753

LAMAR	62	1854	205	2121
LEE	84	2033	40	2157
LINCOLN	332	416	5	753
MADISON	58	1561	113	1732
MILEY	26	1653	51	1730
REAGAN	512	1406	14	1932
SCARBOROUGH	29	698	3	730
STERLING	385	1345	132	1862
WALTRIP	141	2427	11	2579

WASHINGTON, B.T.	410	288	2	700
WESTBURY	0	1416	179	1595
WHEATLEY	1154	946	24	2124
WILLIAMS	458	194	41	693
WORTHING	981	329	674	1984
YATES	1773	359	108	2240
TOTAL	9,755	27,686	3,244	40,685

HOUSTON INDEPENDENT SCHOOL DISTRICT

GEOGRAPHIC CAPACITY PLAN

JUNIOR HIGH

SCHOOL	NEGRO	WHITE	UNKNOWN	TOTAL

ATTUCKS	1285	237	33	1555
BLACK	52	2178	18	2248
BURBANK	425	1120	48	1593
CULLEN	1159	554	106	1819
DEADY	105	2185	76	2366

DOWLING	120	1545	32	1697
EDISON	0	1302	3	1305
FLEMING	749	174	29	952
FONDREN	21	1680	172	1873
FONVILLE	283	934	77	1294
FURR	658	747	44	1449
HAMILTON	293	1275	165	1733
HARTMAN	27	1639	57	1723
HENRY	4	1156	17	1177

HOGG	152	1108	55	1315
JACKSON	121	1470	12	1603
JOHNSTON	0	2240	41	2281
KEY	1529	260	27	1816
LANIER	30	1201	21	1252
LINCOLN	417	154	4	575
LONG	1	1326	27	1354
MARSHALL	346	1336	25	1707
MCREYNOLDS	507	1386	43	1936

MILLER, W.E.	920	221	18	1159
PERSHING	0	1955	61	2016
ROGERS	49	1852	7	1908
RYAN	1588	189	31	1808
SCARBOROUGH	0	805	10	815
SHARPSTOWN	90	2191	91	2372
SMITH, E.O.	1664	257	31	1952
TERRELL	675	167	17	859
THOMAS	851	982	71	1904

WASHINGTON, B.T.	582	362	20	964
WASHINGTON, C.	252	787	19	1058
WILLIAMS	393	229	27	649
WOODSON	1227	223	75	1525
TOTAL	16,575	37,427	1,610	55,612

HOUSTON INDEPENDENT SCHOOL DISTRICT

GEOGRAPHIC CAPACITY PLAN

ELEMENTARY

SCHOOL	**NEGRO**	**WHITE**	**UNKNOWN**	**TOTAL**

ALAND	1	354	1	356
ALCOTT	504	645	83	1232
ALLEN	280	476	7	763
ALMEDA	28	527	11	566
ANDERSON	0	1273	86	1359
ATHERTON	1119	11	0	1130
BARRICK	1	1071	16	1083
BASTIAN	892	242	38	1172
BENBROOK	0	1040	5	1045
BERRY	471	492	16	979

BLACKSHEAR	1673	11	43	1727
BOWMAN	1	1080	26	1107
BONNER	0	927	0	927
BOWIE	719	261	3	983
BRAEBURN	2	682	13	697
BRIARGROVE	0	994	12	1006
BRISCOE	1	661	7	669
BROCK	270	126	3	399
BROOKLINE	0	662	4	666
BROHWING	2	486	10	498
BRUCE	812	244	26	1082

BURBANK	0	1256	25	1281
BURNET	0	1270	16	1286
BUREUS	1069	113	0	1182
CAGE	0	285	3	288
CARNEGIE	780	1	6	787
CHATHAM	739	172	7	918
CLEVELAND	150	271	3	424
CLINTON PARK	365	1	3	369
CONCORD	566	143	6	715
CONDIT	0	712	6	718

COOLEY	91	524	13	628
COOP	12	1585	9	1606
CORNELIUS	0	773	1	774
CRAWFORD	350	29	5	384
CROCKETT	113	249	2	364
CUNNINGHAM	1	766	11	778
DE CHAUMES	0	983	7	990
DE ZAVALA	6	996	46	1048
DODSON	1018	83	21	1122
DOGAN	1285	70	4	1359
DOUGLASS	1057	2	18	1077

DOW	44	448	1	493
DUNBAR	678	57	11	746
DURHAM	2	651	15	668
DURKEE	0	1297	40	1337
EASTER	882	185	10	1077
EIGHTH AVENUE	393	213	10	616
ELIOT	52	1417	3	1472
ELROD	33	1290	6	1329
EMERSON	77	880	3	960
FAIRCHILD	836	170	22	1028
FANNIN	90	264	7	361

FIELD	0	560	6	566
FOERSTER	20	926	17	963
FONDREN	0	595	5	600
FOSTER	1143	53	114	1310
FRANKLIN	0	1670	3	1673
FROST	652	450	10	1112
GARDEN OAKS	131	626	18	775
GARDEN VILLAS	0	842	40	882
GOLFCREST	1	575	2	578
GORDON	0	425	3	428
GRADY	0	607	1	608

GREGG	0	490	0	490
GREGORY	749	195	11	955
GRIMES	822	158	6	986
GRISSOM	87	1325	11	1423
HARPER	297	182	6	485
HARRIS, J.R.	121	1386	15	1522
HARRIS, R.P.	0	320	22	342
HARTSFIELD	638	295	77	1010
HARVARD	5	776	12	793
HELMS	99	412	6	517
HENDERSON, J.P.	7	912	12	931

HENDERSON, N.Q.	646	0	4	650
HEROD	0	1151	1	1152
HIGHLAND HTS.	474	205	11	690
HOBBY	55	1113	30	1198
HOHL	24	712	8	744
HOLDEN	456	269	3	728
HORN	1	844	4	849
HOUSTON GARDENS	752	233	4	989
ISAACS	898	162	1	1061
JANOWSKI	1	764	8	773

JEFFERSON	0	808	10	818
JONES, A.	5	428	2	435
JONES, J.W.	557	50	13	620
KASHMERE GARDENS	887	22	15	924
KAY	173	173	4	350
KELSO	531	810	15	1356
KENNEDY	778	17	1	796
KOLTER	2	980	9	991
LAMAR	30	923	12	965
LANGSTON	874	21	14	909
LANTRIP	4	872	15	891

LAW	829	149	9	987
LEE	24	453	9	486
LEWIS	1	616	2	619
LOCKHART	682	85	15	782
LONGFELLOW	4	597	41	642
LOOSCAN	171	342	7	520
LOVE	102	238	7	347
LOVETT	0	376	13	389
MACARTHUR	661	161	63	885
MACGREGOR	666	50	31	747
MADING	829	559	16	1404

MCDADE	1188	117	16	1321
MEMORIAL	50	497	6	553
MILAM	47	300	0	347
MILLER, D.	91	98	6	195
MITCHELL	0	659	52	711
MONTGOMERY	14	1287	27	1328
MONTROSE	1	356	9	366
NEFF	0	1470	18	1488
NORTHLINE	0	913	12	925
OAK FOREST	0	1088	6	1094
OATES	59	591	5	655

OSBORNE	820	44	24	888
PARKER	0	1397	2	1399
PARK PLACE	0	688	2	690
PATTERSON	0	665	4	669
PECK	405	116	5	526
PETERSEN	240	663	11	914
PILGRIM	0	584	19	603
PINNY POINT	288	104	1	393
PLEASANTS	769	0	11	780
PLEASANTVILLE	880	0	0	880
POE	0	559	5	564

PORT HOUSTON	4	536	4	544
PUGH	4	1041	0	1045
RED	0	1142	5	1147
REYNOLDS	1225	0	1	1226
RHOADS	883	2	8	893
RICHMOND	0	914	0	914
RIVER OAKS	10	642	25	677
ROBERTS	0	542	7	549
ROGERS	0	565	17	582
ROOSEVELT	3	398	5	406

ROSS	251	9	5	265
RUCKER	0	1100	1	1101
RUSK	278	438	3	719
RYAN	415	278	1	694
SANDERSON	863	26	2	891
SCARBOROUGH	0	1091	21	1112
SCOTT	838	79	0	917
SCROGGINS	76	639	1	716
SHEARN	0	617	34	651
SHERMAN	120	1114	2	1236
SINCLAIR	0	933	18	951

SMITH, K.	79	1281	16	1376
SOUTHLAND	674	134	20	828
SOUTHMAYD	1	1023	241	1265
STEVENS	0	1068	3	1081
STEVENSON	35	539	1	575
SUNNYSIDE	1231	8	30	1269
SUTTON	1	1566	26	1593
TRAVIS	0	523	2	525
TURNER	1220	75	22	1317
TWAIN	0	690	22	712
WAINWRIGHT	35	812	6	853

WALNUT BEND	0	1510	19	1529
WESLEY	421	270	46	737
W. UNIVERSITY	0	1042	7	1049
WHARTON	183	518	19	720
WHIDBY	735	57	31	823
WHITE	0	923	2	925
WHITTIER	0	647	2	649
WILSON	64	353	42	459
WINDSOR VILLAGE	40	896	38	974

HOUSTON INDEPENDENT SCHOOL DISTRICT

EQUI-DISTANT PLAN

SENIOR HIGH

SCHOOL	NEGRO	WHITE	UNKNOWN	TOTAL

AUSTIN	109	1476	13	1598
BELLAIRE	0	1873	1270	3143
BELLAIRE RELIEF	7	1757	143	1907
DAVIS	544	1045	32	1621
FURR	397	555	3	955

HOUSTON, SAM	148	3016	35	3199
JONES, J.	585	1008	87	1680
KASHMERE	1603	254	18	1875
LAMAR	29	1825	244	2098
LEE	78	1599	63	1740
LINCOLN	347	420	10	772
MADISON	46	939	23	1008
MILEY	139	2328	50	2517
REAGAN	189	1493	16	1698

SAN JACINTO	379	214	11	604
SCARBOROUGH	30	693	3	726
STERLING	196	1424	52	1672
WALTRIP	79	1843	8	1930
WASHINGTON, B. T.	553	252	1	806
WESTBURY	19	2061	243	2323
WHEATLEY	314	920	14	1243
WILLIAMS	460	235	40	735
WORTHING	1228	94	774	2096

	NEGRO	WHITE	UNKNOWN	TOTAL
YATES	1228	155	46	1429
TOTAL	8,702	27,479	3,199	39,380

HOUSTON INDEPENDENT SCHOOL DISTRICT

EQUI-DISTANT PLAN

JUNIOR HIGH

SCHOOL	NEGRO	WHITE	UNKNOWN	TOTAL

ATTUCKS	1219	123	17	1359
BLACK	55	1753	9	1817

BURBANK	213	1474	40	1727
CULLEN	1491	445	100	2036
DEADY	139	2182	81	2402
DOWLING	131	1709	25	1865
EDISON	129	1312	3	1444
FLEMING	782	268	19	1069
FONDREN	22	1538	245	1805
FONVILLE	141	1228	89	1458
FURR	739	380	31	1150

HAMILTON	249	1144	62	1455
HARTMAN	121	2081	142	2344
HENRY	4	1201	19	1224
HOGG	57	897	34	988
JACKSON	38	1312	3	1353
JOHNSTON	1	2410	95	2506
KEY	1832	261	47	2140
LANIER	9	1494	31	1534
LINCOLN	252	405	5	662

LONG	54	1500	44	1598
MARSHALL	379	1182	26	1587
MCREYNOLDS	432	1285	41	1758
MILLER	670	161	7	838
PERSHING	0	1693	45	1738
ROGERS	0	1394	9	1403
RYAN	1781	93	10	1884
SCARBOROUGH	15	1037	6	1058
SHARPSTOWN	98	1912	27	2037

SMITH, E.O.	1470	192	37	1699
TERRELL	804	168	11	983
THOMAS	692	944	51	1687
WASHINGTON, B.T.	891	149	9	1049
WASHINGTON, C.	311	743	21	1075
WILLIAMS	564	169	3	736
WOODSON	1426	105	96	1627
TOTAL	17,211	36,344	1,540	55,095

HOUSTON INDEPENDENT SCHOOL DISTRICT

EQUI-DISTANT PLAN

ELEMENTARY

SCHOOL	NEGRO	WHITE	UNKNOWN	TOTAL

ALAMO	87	339	4	430
ALCOTT	712	754	71	1537
ALLEN	83	416	2	501
ALMEDA	27	291	6	324
ANDERSON	25	1736	51	1812
ATHERTON	843	6	0	849

BARRICK	0	1088	23	1111
BASTIAN	899	249	3	1151
BENBROOK	0	798	1	799
BERRY	144	857	17	1018
BLACKSHEAR	1343	11	44	1398
BONHAM	0	991	36	1027
BONNER	0	937	0	937
BOWIE	809	191	1	1001
BRAEBURN	0	769	16	785
BRIARGROVE	0	803	11	814
BRISCOE	0	506	3	509

BROCK	271	152	3	426
BROOKLINE	0	958	2	960
BROWSING	0	458	10	468
BRUCE	446	4	33	483
BURBANK	0	806	16	822
BURNET	0	1238	14	1252
BURRUS	1027	106	0	1133
CAGE	1	280	2	283
CARNEGIE	806	1	4	811
CHATHAM	962	366	5	1333
CLEVELAND	49	325	22	396

CLINTON PARK	388	1	2	391
CONCORD	1	66	2	709
CONDIT	0	779	9	788
COOLEY	0	389	6	395
COOP	3	827	2	832
CORNELIUS	0	703	0	703
CRAWFORD	655	13	11	679
CROCKETT	68	330	1	399
CUNNINGHAM	0	503	3	506
DECHAUMES	0	981	5	986
DEZAVALA	1	904	4	909

DODSON	1336	28	23	1387
DOGAN	702	75	0	777
DOUGLASS	737	0	12	749
DOW	334	331	1	666
DUNBAR	293	52	7	352
DURHAM	2	640	16	658
DURKEE	9	1311	38	1349
EASTER	912	222	8	1142
EIGHTH AVENUE	502	167	9	678
ELIOT	892	640	4	1536

ELROD	38	1312	5	1355
EMERSON	188	880	4	1072
FAIRCHILD	1329	178	44	1551
FANNIN	11	141	15	167
FIELD	2	605	8	615
FOERSTER	9	790	11	810
FONDREN	0	227	1	228
FOSTER	1084	28	111	1223
FRANKLIN	7	1491	46	1544
FROST	558	465	12	1035
GARDEN OAKS	0	283	19	302

GARDEN VILLAS	0	693	20	713
GOLFCREST	0	553	0	553
GORDON	0	455	3	458
GRADY	0	525	1	526
GREGG	0	624	2	626
GREGORY	847	334	10	1191
GRIMES	762	144	6	912
GRISSOM	87	1210	10	1307
HARPER	296	245	5	546
HARRIS, J.R.	187	1093	15	1295
HARRIS, R.P.	5	384	23	412

HARTSFIELD	542	250	58	850
HARVARD	8	313	7	328
HELMS	172	305	3	480
HENDERSON, J.P.	7	590	9	606
HENDERSON, N.Q.	570	0	3	573
HEROD	0	1049	6	1055
HIGHLAND HTS.	365	141	4	510
HOBBY	95	916	22	1033
HOHL	13	843	9	865
HOLDEN	488	586	6	1080
HORN	0	846	3	849

HOUSTON GARDENS	591	146	2	739
ISAACS	790	240	3	1033
JANOWSKI	0	688	8	696
JEFFERSON	22	634	11	667
JONES, ANSON	251	403	2	656
JONES, J. W.	632	54	15	701
KASHMERE GARDENS	756	12	9	777
KAY	102	268	0	370
KELSO	404	729	16	1149
KENNEDY	908	113	10	1031
KOLTER	0	705	10	715

LAMAR	30	994	3	1027
LANGSTON	956	11	11	978
LANTRIP	16	900	15	931
LAW	559	198	7	764
LEE	49	367	2	418
LEWIS	0	692	10	702
LOCKHART	764	177	16	957
LONGFELLOW	2	545	35	582
LOOSCAN	27	643	0	670
LOVE	42	381	11	434

LOVETT	0	585	14	599
MACARTHUR	704	213	49	966
MACGREGOR	579	56	32	667
MADING	602	509	14	1125
MCDADE	1426	162	13	1601
MEMORIAL	6	198	3	207
MILAM	213	274	0	487
MILLER, D.	137	186	8	331
MITCHELL	0	644	47	691
MONTGOMERY	11	1584	32	1627
MONTROSE	1	195	5	201

NEFF	0	1479	20	1499
NORTHLINE	0	898	16	914
OAK FOREST	3	1404	9	1416
OATES	114	553	2	669
OSBORNE	649	243	19	911
PARKER	0	1197	5	1202
PARK PLACE	0	785	6	791
PATTERSON	0	665	3	668
PECK	216	360	2	578
PETERSEN	199	625	18	842
PILGRIM	0	723	16	739

PINEY POINT	125	443	11	579
PLEASANTS	530	0	6	536
PLEASANTVILLE	977	0	0	977
POE	0	570	5	575
PORT HOUSTON	66	580	1	647
PUGH	86	935	0	1021
RED	0	1346	10	1356
REYNOLDS	326	12	0	338
RHOADS	962	21	4	987
RICHMOND	0	848	3	851
RIVER OAKS	3	465	19	487

ROBERTS	0	467	9	476
ROGERS	8	712	9	729
ROOSEVELT	148	456	6	610
ROSS	735	64	7	806
RUCKER	0	1077	1	1078
RUSK	53	715	3	771
RYAN	586	388	4	978
SANDERSON	893	82	0	975
SCARBOROUGH	0	1122	14	1136
SCOTT	964	74	3	1041
SCROGGINS	32	790	3	825

SHEARN	0	666	40	706
SHERMAN	153	1022	1	1176
SINCLAIR	57	823	25	905
SMITH, K.	76	1127	15	1218
SOUTHLAND	711	197	30	938
SOUTHMAYD	8	1181	29	1218
STEVENS	3	1137	16	1156
STEVENSON	0	699	4	703
SUNNYSIDE	712	15	18	745
SUTTON	0	969	4	973

TRAVIS	2	645	11	658
TURNER	1049	25	15	1089
TWAIN	0	689	19	708
WAINWRIGHT	34	987	9	1030
WALNUT BEND	14	1614	7	1635
WESLEY	648	91	65	804
WEST UNIVERSITY	0	1214	10	1224
WHARTON	0	485	7	492
WHIDBY	628	8	37	673
WHITE	0	996	5	1001
WHITTIER	0	790	4	794

WILSON	8	447	40	495
WINDSOR VILLAGE	20	879	39	938

Orange County	**Houston**
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910 square miles	311 square miles [*]
98 schools	230 schools
82,868 students (82% white)	238,460 students (67% white)
3,563 teachers (82% white)	9,642 teachers (68% white)

317 F.Supp. 512

All Citations

Footnotes

[1]   Pursuant to United States v. Jefferson County Board of Education, 372 F.2d 836 (5th Cir. 1966).

[2]   Approximately 25% Of the Negro students now attend formerly all white schools. Every faculty is integrated, though

not as thoroughly as is now required by law.

3   Five schools are joint junior-senior high schools: Furr, Lincoln, Scarborough, Washington, B.T., and Williams.

4   This was prior to Singleton, supra, but anticipated that holding to some extent.

5   This statement is not entirely accurate as to race. Questionnaires submitted to all the students in some instances were returned with this question unanswered. These are shown as 'race unknown' in the statistics discussed hereafter. In only a few instances are these 'unknown' figures of any great significance.

6   The plaintiff does not concede that the defendant Board is in full compliance in these respects, but neither plaintiff nor Intervenor has raised the question, or offered evidence to the contrary. From my own continuing familiarity with the problem, I am sure that such is the case.

7   I am advised that this Center has been the source of many similar plans advocated by the plaintiffs in other school desegregation suits in major cities throughout the country.

8   This suggestion is not as absurd as it sounds. This Court has been called upon in perhaps a dozen instances within the last few months to examine school procedures with respect to the right of a child to attend school with his hair too long; her skirts too short; charged, but not convicted, of possession of marihuana; the distribution of underground newspapers, etc. We well might be called upon to review a procedure, alleged to be discriminatory, which requires some black students to be bussed ten miles to school, while their black neighbors are permitted to attend schools within two blocks of their homes.

9   Alexander v. Holmes Co., supra, 396 U.S. at p. 20, 90 S.Ct. at p. 30.

10   The plan admittedly shows only an approach to the problem, not a solution. Of the 170 elementary schools, data on only 78 was considered.

11   *Including 150 square miles within the City of Houston, the remainder being suburban or semi-rural.

12   From the original drawing of the lines with mathematical or geometrical precision equi-distantly between the schools. there have been surprisingly few instances in which the zones thus designated must be reduced by reason

of school capacity. Of the 230 schools, only 53 would require modification (35 elementary, 11 junior high, and 7 senior high).

[13]   An overall consideration of the figures from the various statistical studies submitted by the parties shows certain obvious errors with respect to the figures relative to this equi-distant zoning plan, and the geographical- capacity zoning plan to be discussed hereafter. The figures shown for freedom of choice are taken from present enrollments, and are accurate. This reflects, for example, 12,601 Negro high school students; 18,491 Negro junior high schools students; and 47,881 Negro elementary students, for a total of 78,973 Negro students. Comparable figures for the equi-distant zoning plan show 8,702 Negro high school students; 17,211 Negro junior high school students; and 46,303 Negro elementary students, for a total of 71,943. Comparable figures for the geographical capacity zoning plan show 9,755 Negro senior high school students; 16,575 Negro junior high school students; and 47,895 Negro elementary students, for a total of 74,225 Negro students. It should be borne in mind that the figures for the equi-distant zoning plan and for the geographical capacity zoning plan are both projections. The discrepancy is explained by these two considerations. First, the 'race unknown' students are not included in either of the latter two plan figures; and second, these figures result in part from human error. They are made from an actual count of the dots, indicating the residence of each of the almost 240,000 students, each dot being somewhat smaller than the head of a pin. No two counts result in quite the same answer. For practical and comparative purposes, however, I think these inaccuracies may be disregarded.

[14]   This is probably accurate, in that the Worthing School shows an expected attendance of 94 whites, 1,228 Negro and 774 'race unknown'.

[15]   Like most other cities in the South, Houston has definite racial residential patterns. Unlike some other cities, however, these patters within recent years have been subject to constant change. Sections of the city which a few years ago were inhabited almost entirely by whites are now almost 100% Black. A number of the schools with which this Court has dealt in prior years as substantially all-white schools now under freedom of choice are predominantly black. Statistics show that approximately 20% Of the students of the defendant District move their residence every year.

[16]   Compare the incidence of integration achieved here, overall and at every level, with that of the following recent Fifth Circuit cases: Ellis, supra; Bivins v. Bibb County, supra; Singleton IV, 1970, 426 F.2d 1364; and Mannings v. Board of Education of Hillsborough County, Florida, 1970, 427 F.2d 874.

[17]   To be distinguished from traffic hazards, railroad crossings, etc., the by-passing of which might be desirable, but is not essential.

[18]   Brown v. Board of Education, 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873.

1/ San Jacinto not listed.

2/ Lincoln, Scarborough, and Williams converted to Junior High. Bellaire Relief not included because completion was not contemplated at the time the plan was prepared; it will take excess white students from Sharpstown and Bellaire.

3/ Bellaire Relief not included, same as f.n. 2; but includes projection for Senior High at Sharpstown Junior-Senior.

1/ Not included in plan because not projected to be completed at this time; will take excess white students from Bellaire and Sharpstown.

2/ Stolee combined statistics for Junior and Senior High. Students allocated 50% each to Junior and Senior High.

3/ Proposed as Junior High only.

4/ Proposed as Junior High only.

1/ Proposes Booker T. Washington as Senior only.

2/ Proposes Williams as Senior only.

1/ From Gov. Ex. 104.

2/ Stolee combined statistics for Junior - Senior High. Students allocated 50% each to Junior and Senior High.

3/ Paired Grades 8 and 9 with Terrell.

4/   Paired Grade 7 with Henry.

5/   Recommended B. T. Washington be converted to Senior High School.

6/   Recommended Williams be converted to Senior High School.

1/   Alternative No. 1, completed with statistics from defendants Geographic Capacity Plan for schools for which statistics were not previously given.

1/   Alternative No. 1, completed with statistics from defendants Geographic Capacity Plan for schools for which statistics were not previously given.