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Desegregation, Chicago Style

What's the best way to desegregate a public school system when the racial mix of students is extremely unbalanced and the law does not countenance combining city and suburban schools? There is no good way.

That's the situation in Chicago, where only 17 percent of 440,000 students are white. To deal with it, Chicago officials have obtained a Federal judge's approval for a plan that leaves desegregation of individual schools a voluntary matter but envisions educational enrichments for all schools. Appropriate as that may be in Chicago, it hardly deserves to be the Justice Department's model for cities where desegregation may still be possible.

The Chicago plan calls for "magnet" schools with special programs to attract students of all races. It also requires improving discipline, curriculums, teaching strategies and other programs in all public schools, and special programs for mentally handicapped children. The plan would consider 183 of Chicago's 538 schools desegregated.

In Chicago's circumstances, it is a sound plan. New York and other cities are proving that strong management can improve schools. The court noted that the plan would cost money and that Chicago would need expert help to make it work. The judge hinted that if the state and Federal governments did not provide enough aid, he would consider other remedies.

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The real problem in school desegregation isn't in Chicago, but Washington. Even before this plan is attempted, William Bradford Reynolds, the Assistant Attorney General for Civil Rights, has expressed hope that it will "encourage courts to consider similar voluntary measures to achieve desegregation." He forgets that the Chicago plan is a pragmatic alternative to an already hopelessly segregated urban school district. To commend such a plan to, say, Rochester or Los Angeles would be to sound a major retreat in national policy.

The battle has often been arduous and bitter, but the goal remains important. Racial isolation and inferior education are social dynamite Let Chicago serve as an experiment, but only for systems beyond any hope of significant desegregation. Elsewhere, the struggle is worth pursuing.

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How Chicago's Schools Will Be Desegregated

To the Editor:

Descriptions in news stories (Jan. 7 and 9) of Chicago's school desegregation plan as having no numerical requirements for racial composition of schools and as not likely to produce significant desegregation are erroneous.

The plan requires every school to have a minority enrollment of at least 30 percent. While there will necessarily remain a number of racially isolated minority schools, the total number of children of all races in desegregated schools must be at least twice the number of white children available in the whole school system.

In achieving these requirements, Chicago will produce proportionately more desegregation than have most other urban school districts which relied on mandatory busing. Moreover, these results are being achieved at the same time that total white enrollments are exceeding projections.

Approval of the plan, accordingly, by no means indicates any turning back on school desegregation.

C. RICHARD JOHNSON
Counsel, Board of Education
Chicago, Jan. 11, 1983

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History lesson on the school plan

Vernon Jarrett

There is an easy temptation in some quarters to label the recent federal court's approval of the Chicago school desegregation plan as nothing more than a scheme worked out by a reactionary Reagan Justice Department and a conservative school board.

That conclusion represents only a half truth.

Lest we forget, the consent decree was originally fashioned by the Chicago School Board in cooperation with a Justice Department appointed by one President Carter.

Moreover, the gentleman who negotiated the deal with the Chicago Board was a black former civil rights lawyer, Drew Days, the then-assistant attorney general of the United States. Days is today a professor at the Yale University Law School.

When the Justice Department and the board reached their agreement, Days was in charge of the department's civil rights division. When the National Association for the Advancement of Colored People's legal department heard of the consent decree, the NAACP's general counsel, Thomas Atkins, tried to dissuade Days from finalizing the deal. Atkins argued that the government couldn't afford to agree to a plan that was weak on enforcement provisions, "particularly when dealing with people that you can't trust."

Days reportedly felt that the school board could be trusted to act in good faith because of its composition. In September, 1980, when the decree was announced, five of the 11 school board members were black. The Rev. Kenneth B. Smith, a black, was president of the board and Joyce Hughes, a black Northwestern University law professor, was chairman of the board's desegregation committee.

Atkins argued that school board compositions and committee chairmanships are transitory. "You can't confuse temporary power—particularly when it is appointive—with permanent authority such as the law's," Atkins said in 1980.

Days took the position that the board would put forth its best effort to develop a plan that would conform with the Constitution.

The Chicago Board of Education and the Justice Department fell back on the argument, which was legally correct, that no "particular remedy" is required to carry out the Supreme Court's 1954 decision, which made deliberate segregation illegal.

Therefore, argued Atkins last week, the consent decree approved by Federal Judge Milton I. Shadur is filled with the "the old volunteerism that already has been proven unsuccessful in the South."

"It is interesting that what the Carter administration was willing to sign on, the Reagan administration was willing to execute," Atkins said to The Tribune.

Shadur was one of the lead lawyers in the controversial Gautreaux case won by the American Civil Liberties Union before U.S. District Court Judge Richard Austin. Austin ruled that public housing in Chicago be held up until the Chicago Housing Authority [CHA] designated areas for construction other than in segregated black neighborhoods.

Austin charged in his decision that the CHA had a history of deliberate housing segregation. Interestingly, that same charge has been leveled at the Chicago School Board by the NAACP and other civil rights organizations.

Shadur also was one of the organizers of the Lawyers' Committee for Civil Rights Under the Law.

When the Black Panther case was assigned to his court shortly after he was sworn in as a federal judge, Shadur disqualified himself because he had been among a group of lawyers that filed an *amicus curia* brief supporting the plaintiffs who sought damages for the 1969 killings of Panther leaders Fred Hampton and Mark Clark.

Individuals close to the civil rights movements of the 1960s may recall Shadur as one of the lawyers working for civil rights legislation in Illinois under the aegis of the American Jewish Congress.

I agree with some of my critics who accuse me and other journalists of "too frequently suggesting that the trend toward conservatism began after the election of Reagan to the presidency."

One writer this week reminded me that it was Carter who "first placed that grain embargo against Russia after the invasion of Afganistan." The reference was to my recent column which suggested that the much-publicized auction of a Colorado farmer's land resulted from the embargo against the Soviets. I had blamed Reagan without a mention of Carter.

1-10-83

Chicago ruling — new twist in busing debate

City's voluntary plan could signal shift in racial policy

By Lucia Mouat
Staff correspondent of
The Christian Science Monitor

Chicago

The Reagan administration hopes — and some civil rights activists fear — that a recent federal district court decision here is the beginning of the end for court-ordered busing in the United States.

They're reacting to a Chicago judge's decision to let that city's school system desegregate voluntarily, rather than bus pupils between schools to achieve a racial mix.

But other education experts suggest that the Chicago case is unique, and won't generate a nationwide trend.

The Reagan administration, which has long argued that busing doesn't work and two months ago asked the Supreme Court to reconsider its 1971 ruling allowing court-ordered busing, clearly hopes that such a trend is underway.

William Bradford Reynolds, the assistant attorney general for civil rights, says he hopes the Chicago plan, relying on education-enrichment programs rather than mandatory pupil reassignment, will serve as a national model. A few civil rights experts say Judge Milton Shadur's acceptance of the Chicago Board of Education plan marks a move away from busing in the US.

"I think that's a fair prediction — I'd be very surprised if there's any return to a heavier kind of mandate," says William Hazard, a Northwestern University education professor. "The implication seems clear that the government is backing off from putting much pressure on the schools to do anything."

Most past court-ordered desegregation action includes mandatory shifts of pupils from one school to another to get a more desirable racial mix. The moves generally involve busing, which civil rights activists such as the National Association for the Advancement of Colored People (NAACP) consider essential to effective desegregation — particularly in cities where resistance to change is high. NAACP general counsel Thomas Atkins charges that the Chicago school board "intentionally rejected" effective measures in this case and turned to a "mixed bag of previously failed techniques."

But many civil rights experts say they view the Chicago decision as an isolated case rather than a turning point.

Since more than half of Chicago's public schools are at least 85 percent black, some civil rights experts surmise that Judge Shadur took the action he did out of a realistic concern that little further desegregation was possible and that stronger action would trigger further white flight.

Some add that the case sets no legal precedents because it involves the approval of a consent decree by the Chicago Board of Education, and not a litigated remedial plan.

To duck a threatened Justice Department suit two years ago, the board, which has been mulling what to do about desegregation for more than two decades, agreed in the consent decree to develop its own plan of action. Judge Shadur simply accepted the plan as constitutional, noting that it was largely a "promise" which must be closely monitored.

University of Chicago Political Scientist Gary Orfield, author of a recent study suggesting that black student segregation is on the rise in the Northeast and Midwest, says a number of other federal district court decisions have similarly denied busing as a remedy. But most have been overturned later at the appellate level.

The problem in this case, he says, is that neither the school board nor the Justice Department represent the interests of minority children. A court suit by such an outside agency as the NAACP (it already has one suit pending against the Chicago board and is mulling another) could lead to a significantly different decision.

Many, including Judge Shadur, now argue that the time for substantial desegregation may well have passed. Back in

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1961, when parents of black children filed the first suit against Chicago schools, the system was 47 percent black.

Both Willis Hawley, the dean of Vanderbilt University's Peabody College of Teachers, and Robert Crain, a social scientist with Johns Hopkins University, note that many civil rights experts and most judges tend to equate desegregation with predominantly white schools. Under the Chicago consent decree, for instance, a school which has at least 30 percent minority students will be considered desegregated.

"I don't think there's any real surprise in the Chicago decision," says Dr. Crain. "There's no reason to think the Reagan administration has achieved some wonderful moral victory over the courts. . . . Carter's Justice Department would have done essentially the same thing." (Indeed, Judge Shadur is a Carter appointee.)

Michigan's Professor Vergon notes that a similar legal argument made in Detroit — that whites were too few for effective desegregation — was rejected by the courts on grounds that even a small percentage of whites could be distributed more equitably. "A majority black district can still be desegregated," he says.

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Newsweek

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Riding the School Bus Is Strictly Voluntary

The Chicago Board of Education, nagged by charges of racial segregation for two decades, avoided a federal-government lawsuit in the fall of 1980 by signing a consent decree with the Justice Department to devise yet another school-desegregation plan. Justice had inherited the case from the Department of Health, Education and Welfare after the then Secretary Patricia Harris concluded that the city's voluntary scheme would not do. Times change. Last week U.S. District Judge Milton Shadur pronounced "constitutionally acceptable" an equally voluntary plan devised with the blessing of Ronald Reagan's antibusing Justice Department. William Bradford Reynolds, chief of Justice's civil-rights division, predicted the plan would prove that "voluntary transfers can achieve more lasting desegregation" than mandatory busing.

Chicago school officials were relieved that the long-running melodrama finally seemed to have ended. The Chicago Urban League, however, criticized the decision. "We feel the history of the school system had been segregation of blacks, and blacks will continue to be racially isolated," said vice president Roger Fox. To a large degree such isolation now appears inevitable: Chicago's school population is 61 percent black, 20 percent Hispanic and only 16 percent white. The plan relies heavily on magnet schools and special enrichment programs to bolster the remaining neighborhood schools. A school will be deemed "desegregated" if it has at least 30 percent whites and 30 percent blacks or Hispanics. But nearly 60 percent of the city's schools will remain almost entirely nonwhite.

■ The Justice Department last week also challenged, for the first time, a court-ordered remedy for past racial discrimination in a case involving the New Orleans Police Department. Ten years ago blacks on the force sued the city for its employment practices; the city agreed to promote one black officer for each white advanced until blacks made up half the supervisors in the department. Whites, women and Hispanics objected, but the members of the Fifth Circuit court of appeals upheld the agreement just a month ago. Justice now seeks to have the entire Fifth Circuit court overturn that judgment on the ground that it violates the rights of "innocent nonblack employees" under Title VII of the 1964 Civil Rights Act.

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Schools' bias plan OKd

By Casey Banas
Education writer

THE CHICAGO BOARD of Education's desegregation plan was ruled constitutional Thursday by U.S. District Court Judge Milton Shadur, who approved every aspect of the largely voluntary program to improve racial mixing in a school system now only 16.3 percent white.

The ruling is the latest, and perhaps most significant, development in a struggle over racial segregation in Chicago public schools that has gone on for more than 20 years.

Shadur said the school board plan passed three key constitutional tests:

- The definition of a desegregated school as one with at least 30 percent percent minority students enrolled [in a predominately white school] or 30 percent white students [in a predominately minority school].
- The grouping of blacks and Hispanics into a single "minority" group.
- The placement of no undue burden for desegregation on black students.

Raul A. Villalobos, Board of Education president, said, "The court pointed out that the plan is not only adequate to pass constitutional muster, but—and this is vital for public acceptance—he said it is a reasoned and reasonable plan."

THE RULING does not affect suburban schools. Shadur noted that a U.S. Department of Justice report on possible actions by suburban municipalities that might have promoted Chicago school segregation does not make a case for involving the suburbs at this point.

He directed the U.S. government "to step up its efforts on the ongoing investigation." The suburbs could be involved at some future date if the judge rules that they contributed to segregation in Chicago.

Shadur agreed with the school board that mandatory busing was not necessary.

Toward the end of his 41-page opinion, he said, "It may seem bizarre to have gone this far down the road of constitutional evaluation of the plan without talking about busing. Not so."

The Justice Department applauded the judge's opinion, calling the school board's voluntary desegregation plan "extremely encouraging."

THE REAGAN administration has pledged to find methods other than busing to achieve desegregation.

The judge said the school board opted for a plan of voluntary transfers and mandatory measures other than transportation to accomplish its goal of producing the greatest number of stable desegregated schools. He added that the board is within the range of constitutionally permissible desegregation plans and "is free to choose one calculated to minimize parent resistance and thereby serve its larger goal."

Shadur also said that "available alternatives for a desegregation plan would have been far broader" had a Chicago school segregation suit been filed more than 10 years ago when more whites were in the school system.

"It is to be regretted that the problem was not attacked directly and early on by someone," he said, specifically singling out the Chicago Urban League and the NAACP for failing to act.

Ironically, the first suit accusing the Chicago school board of racially segregating students in violation of the law was filed not 10 years ago, but more than 21 years ago, on Sept. 18, 1961. It was filed by parents of 32 black children.

AND THE ISSUE involved goes back to 1954, when the U.S. Supreme Court ruled that the practice in the South of keeping black and white children in "separate but equal" public schools was inherently unequal and unconstitutional.

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The Chicago school board managed to settle the 1961 suit here out of court by promising to let a panel of experts develop a desegregation plan for Chicago. The plan was developed, but never was used.

In the years since then, the Board of Education has been repeatedly threatened with the cut-off of funds by state and federal agencies, which continued to allege that schools here were segregated by deliberate action of the school board.

In 1979, the U.S. Justice Department began investigating Chicago schools and threatened to file a government lawsuit that could have led to a desegregation plan devised by the government and imposed by a federal judge.

TO AVOID THAT, on Sept. 24, 1980, the Chicago Board of Education and the Justice Department jointly agreed to come to the court to seek a consent decree allowing the school board to develop its own plan, but leaving it up to Shadur to approve or reject it.

The plan approved by Shadur Thursday relies largely on magnet schools and voluntary transfers, with 100 programs from which students of all races and ethnic groups can choose. More than 100,000 of 435,000 students are in "desegregated settings."

The plan pledges that by September, 1983, no school will be more than 70 percent white, with a further goal that no school will be more than 55 percent white.

However, many inner-city schools will remain nearly all minority.

Shadur said the board concluded it would not be in the public interest to devise a plan requiring every school to have a racial and ethnic mix reflecting the entire school system because that would lead to "white flight," further diminishing the already small white enrollment.

HE NOTED THAT concerns about "white flight" are legitimate, but should not block constitutional rights of students in any plan. Nevertheless, the judge said the board's plan is not "constitutionally flawed."

The plan promises also the prevention of resegregation.

Shadur ruled that the board's desegregation definition is "unquestionable," adding that it is similar to definitions mandated by courts on other major city school desegregation cases.

Minority enrollment in Milwaukee is 46 percent, and the court-approved definition of a desegregated school is 40 to 75 percent white. St. Louis has 75 percent minority enrollment, and the court defined a school having as much as 70 percent whites as integrated.

Atlanta schools are 85 percent minority, but the court upheld a definition of a school with 70 percent white enrollment as desegregated. Dallas has a minority enrollment of 70 percent, and the court approved a range of 25 to 75 percent white as desegregated.

He noted that the board has a goal to reach at least 35 percent minority enrollment in all schools by October, 1983. The promise is not "just a paper commitment," the judge observed. One indication of the board's seriousness, he said, is that the number of schools where minorities make up less than 30 percent of the enrollment has been reduced from 32 to 7 in the last year.

Shadur said that "more troublesome" than the board's definition of desegregation is the plan's concept that all minorities should be grouped together in the desegregation percentages instead of considering them as separate groups. Chicago has substantial numbers of whites, blacks and Hispanics.

But the judge emphasized that "no constitutional requirement has been articulated that blacks must be a substantial part of the enrollment in all schools in a tri-ethnic system."

He conceded that grouping blacks and Hispanics in a single "minority" category could be used to avoid desegregation of black schools.

BUT SHADUR emphasized that "nothing of the sort is at work here." He said that the school board projects "substantial black enrollment at nearly every such [desegregated] school."

Critics of the plan charged that undue burdens for desegregation were placed on black children. "Those charges do not stand up in constitutional terms," Shadur said.

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Chicago Tribune

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U.S. hails school plan; Urban League critical

By Thomas Hardy

U.S. JUSTICE DEPARTMENT officials hailed Judge Milton Shadur's acceptance of Chicago's voluntary school desegregation plan, saying they hoped the decision would encourage similar measures for achieving desegration elsewhere.

School board officials and their lawyers, meanwhile, celebrated their victory with a champagne toast in board President Raul Villalobos' offices, while the Urban League in Chicago criticized Shadur's opinion.

Roger Fox, a spokesman for the Urban League in Chicago, said the organization was "disappointed" in the decision. He said none of the three key provisions in the plan cited by the court goes far enough to resolve the history of segregation in Chicago schools or remove the perception of black children that the system is closed.

THE JUSTICE Department statement called Shadur's decision "extremely encouraging. The court found the plan to be clearly within the broad range of constitutionally acceptable remedies.

"We remain confident that the proper implementation of this plan . . . can achieve more lasting desegregation than a mandatory plan," it stated, warning that it will monitor implementation to assure that the plan measures up to Shadur's expectations.

"It is our hope that this decision will encourage courts to consider similar voluntary measures to achieve desegregation where the school board has demonstrated a similar enthusiastic commitment to make the plan work," the statement continued.

A spokesman for the NAACP said the organization would have no comment until Friday, after attorneys have a chance to study Shadur's opinion.

IN A PRESS conference at school board headquarters, Villalobos said the board's reaction to the decision was one of "elation." "We had a commitment to solve the problem, and we did it," he said. "Basically, this justifies our commitment and all our work."

Supt. Ruth Love said she thought the court "appreciated" what she termed a plan "that is more concerned with the quality of education in the classroom and a particular school, rather than the transportation to the school."

Martha Jantho, a white school board member and chairman of the desegregation committee, said: "I was very gratified by the judge's decision. It affirms the rights of parents. It's important for parents to have some sense of choice."

Shadur's decision was not a major pronouncement on school desgregation, according to Robert Howard, an attorney who handled the case for the board. "I think the judge said busing is not the issue in this case," Howard said. "The board set out to maximize the desgregation we already had, and I think the judge saw busing as a symbolic issue, as a choice of technique."

Former board member Patricia O'Hern, a Southwest Side resident and an opponent of the plan, said the expense of busing, even in a voluntary plan, remains an issue. "A voluntary program still costs money, and for a school system short of cash every year, I'd prefer to see it spent on education rather than transportation," she said.

Desegregation conflict started 21 years ago

ON SEPT. 18, 1961, parents of 32 black children filed suit in U.S. District Court here, charging the Chicago School Board with deliberate segregating students by race.

At the time, Benjamin Willis was superintendent of Chicago schools. The school system enrollment was 51 percent white and 47 percent black.

In 1963, the first lawsuit was settled out of court when the white-controlled school board agreed to let outside experts develop a desegregation plan. A pattern of accusations, studies and resistance was set.

● April 1964: The board approved the desegregation plan developed by the experts "in principle," but never implemented it.

● September, 1965: Federal education funds to Chicago were frozen by the U.S. commissioner of education because of segregation charges. The funds were later restored by President Lyndon B. Johnson after Mayor Richard J. Daley intervened.

● August, 1967: School Supt. James F. Redmond proposed a variety of measures to encourage voluntary integration, including development of magnet schools. But only one magnet school, Disney, was built under Redmond.

● December, 1967: Redmond proposed voluntary busing programs to relieve overcrowding and integrate schools in the Austin [West Side], Far Northwest Side and South Shore communities. But only a limited Austin-Far Northwest Side program was started.

● March, 1976: In the late 1960s and early 1970s, the desegregation fight had shifted to the issue of racial discrimination in teacher assignments. But in this month, the Illinois Board of Education threatened to cut off state funds unless student desegregation plan was developed.

● April, 1978: School Supt. Joseph P. Hannon announced his own student desegregation plan called "Access to Excellence," which was denounced by the Citywide Advisory Committee [CWAC], a group he earlier had set up to produce a plan. Hannon's plan called for voluntary desegregation through the creation of special school programs of various sorts, including "classical" schools for bright elementary pupils, to attract white students into predominately black schools.

● April to October, 1979: The federal Office of Civil Rights rejected "Access to Excellence." U.S. officials said the school board had purposely kept schools segregated by its attendance boundaries and by keeping black children in overcrowded, inner city schools and by erecting "mobile units" in the playgrounds.

● April, 1981: Outside consultants proposed reassigning 41,706 students through mandatory busing and boundary changes. The board rejected mandatory busing and later submitted a revised plan to federal Judge Milton Shadur stressing voluntary desegregation. The Justice Department rejected the plan in July and reversed itself in August.

● December, 1981: The final version of the plan, which calls for no mandatory busing, was submitted.

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Chicago Upheld On School Plan Without Busing

By NATHANIEL SHEPPARD Jr.
Special to The New York Times

CHICAGO, Jan. 6 — A Federal district judge approved as constitutional today a voluntary school desegregation plan that does not include busing of students.

The decision by Judge Milton I. Shadur to accept the Chicago Board of Education's desegregation proposals, which were contained in a consent decree with the Federal Government, in effect closes the door to hopes of substantial school desegregation here in the view of some civil rights activists.

Officials of the National Association for the Advancement of Colored People and others have pressed for use of busing for desegregation, arguing that little voluntary desegreation is likely to occur in cities such as Chicago, which they say have histories of resisting desegregation.

Some Programs Long in Effect

Some of the strategies approved in the Chicago plan, such as the use of magnet schools to attract students though specialized programs and voluntary student transfers to enhance desegregation, have been in effect here for six years and have achieved only modest results.

The Justice Department has looked favorably on the Chicago plan because it embodies the Reagan Administration concept that one way to achieve desegregation is to improve the quality of educational offerings.

William Bradford Reynolds, the Assistant Attorney General for civil rights, said Judge Shadur's decision was "extremely encouraging."

"It is our hope that this decision will encourage courts to consider similar voluntary measures to achieve desegregation where school boards have demonstrated a similar enthusiastic commitment to make plans work," he said.

In the last school year, 76,885 pupils, or about 17 percent of the Chicago school system's 442,815 enrollment, attended schools defined as desegregated, according to Kenneth Masson, a spokesman for the school board. In Chicago, a school is considered desegregated when no more than 70 percent of its students are black or white. Last year's desegregation level represented an increase from the 1978 school year, when 67,575 students of a total of about 511,000, or about 13 percent attended desegregated schools.

Further complicating desegregation is the fact that white students have left the school system in large numbers. Today whites make up only 17 percent of school enrollment; blacks make up 61 percent, and Hispanics students 20 percent. In 1977 the school system was 59 percent black, 25 percent white and 16 percent Hispanic.

In his 43-page decision, Judge Shadur said the consent decree, which was proposed two years ago, was "clearly within the broad range of constitutionally acceptable plans." The school board entered into the consent decree to head off a suit that had been threatened by the Justice Department because of the city's failure to desegregate its schools.

"To a major extent the plan reflects a promise of things to come," the judge said. "That promise is within the range of constitutional acceptability, if it is kept."

The Chicago plan is more an education enrichment plan than a desegregation plan. It has no specific goals for desegregation, according to Mr. Masson, the school board spokesman. He said the plan covered 14 areas designed to improve the quality of education overall.

The 14 areas included development of a uniform discipline code and citywide curriculum and learning strategies. It also involves reassessment of special education programs for the educable mentally handicapped and discontinuation of individual standardized intelligence tests for these students. It also aims to establish the same educational objectives for both regular English-speaking and limited-English students.

Under the Chicago plan 45 schools will remain all black. These schools will receive $42,000 each for staff and curriculum development, Mr. Masson said.

The Reagan Administration has long opposed busing as a tool for desegregating schools, favoring other unspecified voluntary strategies instead.

In a speech here last August, for example, Mr. Reynolds of the Justice Department said Chicago could become a national model for how to accomplish desegregation "through education, not transportation."

"Experience teaches us that blacks, Hispanics and other minorities in segregated school environments more often than not receive inferior educational attention," he said, adding that the solution was improving schools, not busing.

U.S. Judge Backs Chicago School Plan For Desegregation

A WALL STREET JOURNAL *News Roundup*

A federal judge approved the Chicago Board of Education's school desegregation plan, calling it "clearly within the broad range of constitutionally acceptable plans."

The board implemented the plan in April 1981 after signing of a consent decree with the federal government in September 1980. The plan emphasizes voluntary desegregation but provides for mandatory busing if other approaches fail.

Judge Milton I. Shadur in Chicago indicated that he had delayed ruling on the plan to see how it worked. But he said in the ruling that the plan is in its second school year and that nothing in its execution has been "shown to disprove the premises on which it was designed."

Judge Shadur expressed reservations, notably that the plan's goals were expressed as a total proportion of all minority-group members in a school, rather than setting goals for individual minority groups. But he said the board's plan showed a serious commitment to desegregation.

"To a major extent, the plan reflects a promise of things to come," he wrote. "That promise is within the range of constitutional acceptability if it is kept."

In Washington, Bradford Reynolds, head of the Justice Department's civil rights division, said: "We remain confident that the proper implementation of this plan . . . can achieve more lasting desegregation than a mandatory student-reassignment plan." He noted that in the department's view, the effectiveness of the voluntary plan will "depend on the continued support of the school board and the community."

The department initially disapproved of the board's plan. But after changes were made and Reagan administration officials talked with new school board members, the revised plan won a strong endorsement from the administration last Feb. 11.

The plan's emphasis on voluntary measures is in line with the administration's view that such efforts are preferable to mandatory desegregation plans that include forced busing. The administration has proposed rolling back mandatory busing in Nashville, Tenn., and Baton Rouge, La.

Leading civil-rights groups contend that voluntary plans fail to achieve enough desegregation to be constitutionally acceptable. But the administration contends that white families tend to move away from schools involved in mandatory desegregation, causing them to become segregated again.

Mr. Reynolds said he hopes approval of the Chicago plan "will encourage courts to consider similar voluntary measures" in other localities where school boards have demonstrated a "similar enthusiastic commitment to make the plan work."

The Washington Post

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Chicago School Desegregation To Be Voluntary

By Mary Thornton
Washington Post Staff Writer

U.S. District Court Judge Milton Shadur of Chicago yesterday accepted a voluntary public school desegregation plan that was proposed by the Chicago School Board and supported by the Justice Department.

The plan, which does not call for any mandatory busing, would be based on a system of magnet schools, combined with voluntary transfers and redrawing of some school districts to increase the racial mix.

The Chicago system, which includes about 600 schools, is the nation's third largest and has been plagued by financial difficulties in recent years.

About 61 percent of the city's nearly 436,000 students are black, with about 16 percent white, 20 percent Hispanic and the remainder Asian or American Indian.

After the lawsuit was filed in September 1980 under the Carter administration, the Chicago School Board entered into an agreement with the Justice Department to complete a desegregation plan by March 1981. One of the requirements of that plan, as outlined by the department at the time, was a backup proposal that included mandatory busing and student reassignment if voluntary measures did not work.

After President Reagan took office the Justice Department initially opposed a plan by the school board similar to the one approved yesterday. But in August, 1981, the department changed its position, announcing its general approval of the board's plan.

Although the Justice Department and the court retain the power to monitor the Chicago desegregation plan, there is no backup plan for mandatory measures if it is not successful.

The plan defines a "desegregated" school as one that contains at least 30 percent each of minority and white enrollment. Shadur said that those percentages meet the minimum test of constitutionality. The judge also said he is not troubled by the fact that blacks and Hispanics are lumped together under the plan.

The Reagan administration has been outspoken in its opposition to mandatory school busing as a school desegregation remedy.

William Bradford Reynolds, head of the Justice Department's Civil Rights Division, has said he opposes mandatory busing in new desegregation plans and is willing to ask the courts to overturn existing busing plans in cases where there has been white flight and local officials appeal to him for help.

Some civil rights lawyers have complained bitterly about that change in policy, charging that the federal courts have ordered mandatory busing only as a last resort in cases where voluntary measures have failed.

Reynolds yesterday called Shadur's decision "extremely encouraging," and said he hoped it would encourage other courts to consider "similar voluntary measures to achieve desegregation where the school board has demonstrated a similar enthusiastic commitment to make the plan work .... The court found the plan to be clearly within the broad range of constitutionally acceptable remedies."

"The effectiveness of the voluntary desegregation effort in Chicago will ... depend on the continued support of the school board and the community," Reynolds said. "We remain confident that the proper implementation of the plan ... can achieve more lasting desegregation than a mandatory student reassignment plan."

Reynolds said the Justice Department will "carefully monitor" implementation of the plan to be sure it "actually measures up to the court's expectations."

Alexander C. Ross, the department attorney involved in the case, said the plan has been partially implemented and will be reviewed by the school board each March. He said the court and the department will continue to monitor the case and could reenter it if there are problems.

"This court will not abdicate its constitutional responsibilities" by yesterday's approval, Shadur said. "To a major extent, the plan reflects a promise of things to come. That promise is within the range of constitutional acceptability if it is kept. As both the decree and the parties expect, this court retains jurisdiction to make certain that takes place."

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Judge OKs Chicago's alternative to busing

By Ed Rogers
WASHINGTON TIMES STAFF

A federal judge yesterday approved using magnet schools and voluntary transfers in the huge Chicago school system — the nation's third-largest — as an alternative to court-ordered busing to achieve desegregation.

The Justice Department, in announcing the decision moments afterward in Washington, said the Chicago system is the largest ever sued by the Justice Department. "This is the largest school system in which this administration has obtained approval of a voluntary desegregation plan," a spokesman said.

The decision of Judge Milton Shadur to accept a voluntary desegregation proposal of the Chicago school board was viewed as a victory for the Reagan administration's policy of offering alternatives to mandatory busing, which it views as an ineffective method of desegregation.

"The court found the plan to be clearly within the broad range of constitutionally acceptable remedies," said Assistant Attorney General William Bradford Reynolds, head of the Civil Rights Division.

"It is our hope that this decision will encourage courts to consider similar voluntary measures to achieve desegregation where the school board has demonstrated a similar enthusiastic commitment to make the plan work," he said.

The decision settled a suit the Justice Department filed against the school board in September 1980 to correct alleged illegal segregation of the system's racially diverse pupil population.

At the time the suit was filed, the department also filed a consent decree, compelling the school board to come up with a constitutionally acceptable desegregation plan with close Justice Department cooperation, officials said, the board submitted the voluntary program last January. The plan approved yesterday contains only minor modifications of the original submission, sources said.

The system has 435,843 pupils attending 597 schools. The racial composition is 60.7 percent black, 16.3 white, 2.5 Asian, with Hispanics, American Indians and other races comprising the remainder.

The voluntary plan provides for special educational opportunities that are designed to attract voluntary transfers to more than 100 of the schools that will be considered "magnet schools" designed to correct segregation problems in the system.

It was pointed out that the court approval was based in large part on a commitment of the school officials to achieve effective desegregation with this plan.

Reynolds acknowledged in a statement that effectiveness will "depend on the continued support of the school board and the community.

"We remain confident that the proper implementation of this plan, which is based mainly on magnet schools, and voluntary transfers can achieve more lasting desegregation than a mandatory student-reassignment program," Reynolds said.

Mandatory reassignment often is called "forced busing."

Reynolds said the department plans to monitor the school system's operation closely "to assure that the plan actually measures up to the court's expectations."

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Schools and Segregation

Court Approval of Chicago's No-Busing Plan Not Regarded as Precedent for Other Cities

By ROBERT PEAR
Special to The New York Times

WASHINGTON, Jan. 7 — The decision of a Federal district judge in Chicago approving a school desegregation plan with no mandatory busing represents a victory for Reagan Administration policies in one case, but it does not necessarily set a precedent for other cities or signal a wave of the future.

News Analysis

That was the tentative consensus that emerged today from interviews with Justice Department officials, lawyers for the Chicago Board of Education and civil rights activists at the National Association for the Advancement of Colored People and the Chicago Urban League.

The reality in Chicago and some other cities, recognized by Judge Milton I. Shadur, is that there are just not enough white children left in the cities' public schools to desegregate the whole school system.

William L. Taylor, a civil rights expert at the Center for National Policy Review at Catholic University here, said of the Chicago ruling: "It's another sad chapter in what I think has been a tragic story. Over the years, government failures have narrowed the options enormously."

Mr. Taylor, a former staff director for the United States Commission on Civil Rights, predicted that the Chicago decision "will not result in significant desegregation."

Mandatory Measures Faulted

Lawyers for the Justice Department and for the Chicago Board of Education, who negotiated the voluntary plan, hope it will promote desegregation. "Mandatory measures would produce less desegregation than this plan promises," the Justice Department said.

Judge Shadur, who was appointed by President Carter, opened his opinion with a bit of history. "This lawsuit began where most lawsuits end — with the entry of a decree," he said. "Unfortunately this lawsuit should rather have both begun and ended many years before it was ultimately filed, for the major changes in the schools, and the city's, racial makeup over more than a decade before 1980 have increased enormously the difficulties of developing an effective desegregation plan. In the words of Robert Frost's 'The Road Not Taken,' 'That has made all the difference.' "

Robert C. Howard, special counsel to the Chicago Board of Education, said, "The case does not establish the principle that busing is an inappropriate remedy." Rather, he said, it shows that a plan that "maximizes desegregation" may be acceptable even though it uses only voluntary means.

Echoing this view, Mr. Taylor of Catholic University said, "People would be sadly mistaken if they got the message from this decision that 'freedom of choice' is the wave of the future, or that decisions like this would be acceptable to judges in other places."

Reagan Opposes Busing

But William Bradford Reynolds, Assistant Attorney General for civil rights, said he hoped the decision would "encourage courts to consider similar voluntary measures to achieve desegregation" where the local school board had demonstrated a commitment to make a plan work. Opposition to court-ordered busing has been a central theme of civil rights policy under President Reagan, reflecting the views expressed by Mr. Reagan in his Presidential election campaign.

The Chicago case was special and somewhat atypical. The lawsuit was not filed by black families or civil rights groups but by the Justice Department, in September 1980. The school board neither admitted nor denied violating the law or the Constitution, but it immediately entered into a consent decree, promising to develop a desegregation plan. The N.A.A.C.P. and the Urban League were rebuffed several times in their efforts to intervene; the Justice Department persuaded the judge that it could adequately represent the interests of their members.

David S. Tatel, who was director of the Office for Civil Rights in the Department of Health, Education and Welfare under President Carter, said, "It would be very hard for a court to accept a voluntary plan of this kind after it had made findings that the schools were illegally segregated."

Alexander C. Ross, a Justice Department lawyer who worked on the case, said: "There is more flexibility in a settled case than in a litigated case. After a lot of blood has been let, there is a tendency for the courts to give the winning side more of what it wants and to have no sympathy with the losing side."

No Decision by N.A.A.C.P.

Thomas I. Atkins, general counsel of the N.A.A.C.P., said he had not yet read Judge Shadur's opinion and had not decided whether to challenge it in court. Mr. Ross, the Justice Department attorney, said the N.A.A.C.P. could probably have the case reviewed on its merits by the United States Court of Appeals for the Seventh Circuit, in Chicago. It might try to obtain such review, he said, either by renewing its motion to intervene or by pursuing a separate lawsuit filed in 1980.

In his opinion, Judge Shadur said the school board had legitimate concerns that the use of compulsory desegregation techniques might lead to further "white flight" from the city of Chicago, where non-Hispanic whites account for only 17 percent of the public school enrollment. "It would be tragic," he said, "if a well-intentioned desegregation plan, modeled along the lines suggested by the plan's critics, were to cause accelerated resegregation — so that the common desegregative goals of the board and its critics were defeated."

People who take notice of this danger are not necessarily "catering to bias," the judge said, adding, "Once within the range of constitutionally permissible desegregation plans, the board was free to choose one calculated to minimize parent resistance and thereby serve its larger goal."

Mr. Howard, the attorney for the Chicago school board, said schools were being desegregated as a result of elements of the plan that had already been put into effect. In Chicago, a school is defined as segregated if black and Hispanic students account for less than 30 percent of its enrollment. The number of such schools, Mr. Howard said, declined from 81 in the fall of 1980 to 32 last year to 7 this year.

Many 'Racially Isolated'

But participants in the case agree that many of Chicago's 540 schools will be "racially isolated" even if the desegregation plan works. Last year, according to Mr. Howard, there were 320 schools in which black and Hispanic students accounted for more than 85 percent of the enrollment.

Mr. Howard said that "the issue of busing was only symbolic because you could not achieve more desegregation" with mandatory busing. The Justice Department intends to monitor the situation in Chicago to see if the schools are indeed desegregated. The department could ask the court to take other steps if the consent decree fails to solve the problem.

In the end, the success of the voluntary approach depends on the good faith of the Chicago school board. The Justice Department has much more confidence in the board than civil rights groups have. Indeed, civil rights advocates say city officials have resisted the desegregation of schools and housing for many years.

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CHICAGO DESEGREGATION
CHICAGO (AP) -- A PLAN TO DESEGREGATE CHICAGO PUBLIC SCHOOLS HAS WON APPROVAL FROM A JUDGE AFTER 21 YEARS OF STRUGGLE, BUT THERE NOW AREN'T ENOUGH WHITE STUDENTS TO EFFECTIVELY INTEGRATE THE SYSTEM, EXPERTS SAID FRIDAY.

''IT'S TOO LITTLE AND TOO LATE,'' SAID EDWIN BERRY, FORMER PRESIDENT OF THE CHICAGO BRANCH OF THE URBAN LEAGUE.

THE PLAN APPROVED THURSDAY BY U.S. DISTRICT JUDGE MILTON I. SHADUR RELIES ON VOLUNTARY MEASURES AND CALLS FOR MANDATORY BUSING AS A LAST RESORT. AND TO THE DISMAY OF SOME CIVIL RIGHTS LEADERS, IT DEFINES AN INTEGRATED SCHOOL AS ONE WITH A WHITE ENROLLMENT OF LESS THAN 30 PERCENT.

THAT FIGURE WAS ESTABLISHED LARGELY BECAUSE ABOUT 17 PERCENT OF THE SYSTEM'S 442,000 STUDENTS ARE WHITE WHILE 60.7 PERCENT ARE BLACK AND 20.4 PERCENT ARE HISPANIC. IN 1961, WHEN BLACKS WENT TO COURT SEEKING DESEGREGATION, 51 PERCENT OF THE STUDENTS WERE WHITE AND 47 PERCENT WERE BLACK.

IN HIS OPINION, SHADUR NOTED THAT CHANGE AND ITS CONSEQUENCES WHEN HE EXPRESSED A REGRET THAT THE DESEGREGATION PLAN HAD NOT BEEN DRAWN UP AND APPROVED ''MANY YEARS BEFORE.''

''IN A SENSE, THE 1970S WAS THE LAST DECADE IN WHICH THERE WAS A CHANCE FOR MEANINGFUL DESEGREGATION,'' SAID JOHN MCDERMOTT, EDITOR OF THE CHICAGO REPORTER, A MONTHLY NEWSLETTER ON RACIAL ISSUES.

''THE PLAN ISN'T REALLY AN IDEAL OUTCOME, BUT GIVEN THE STUDENT POPULATION OF THE CHICAGO SCHOOLS, IT'S REALISTIC,'' MCDERMOTT SAID. ''IT MAKES THE BEST OF AN UNFORTUNATE SITUATION.''

THE PLAN RELIES IN PART ON ''MAGNET SCHOOLS'' OFFERING SPECIAL PROGRAMS TO ATTRACT WHITES TO MINORITY NEIGHBORHOODS, BUT SOME OBSERVERS BELIEVE THAT COULD CREATE NEW PROBLEMS.

''THE CONSEQUENCE OF THAT IDEA ... WILL BE TO BANKRUPT FURTHER THE LARGER NUMBER OF LOW-ACHIEVING, LOW-INCOME SCHOOLS IN THE SYSTEM,'' SAID ROGER FOX, VICE PRESIDENT OF THE CITY'S URBAN LEAGUE. ''WE SHOULD BE PULLING THESE SCHOOLS UP INSTEAD OF TAKING AWAY FROM THEM.''

UNDER THE PLAN, MORE THAN 350 OF THE SYSTEM'S 597 SCHOOLS WILL REMAIN MORE THAN 70 PERCENT MINORITY. OBSERVERS SAID THERE IS LITTLE CHANCE OF SWEEPING DESEGREGATION IN THOSE SCHOOLS.
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