

Chapter 3

Segregation in the North; Case Study: Boston⁷

When the Supreme Court issued its landmark decision, *Brown v. Board of Education*, everyone thought it applied only to Southern schools. As years passed it became increasingly obvious that segregated schools existed in Northern cities as well as in Southern counties. Recognizing these facts led civil rights leaders in the North to try integrating their schools. This chapter studies these efforts using the Boston School system as an important case study.

De facto and De jure Segregation

During the 1960's and 1970's, Southerners as well as civil rights workers pointed out that segregated schools were not limited to the South. In 1973 only 13 of the 20 largest school systems in the North had more than 50% minority enrollment. Topping the list was Washington, D.C. with 97% minority, followed by Detroit (72%), Chicago (71%), and Baltimore, San Francisco, and St. Louis, each with 70%. In contrast to the above, the city of Boston had a minority school population of 37%.

The causes for racially segregated schools in the North were much more difficult to detect than in the South. In most cases, the African-American children who attended schools different from the ones attended by whites lived in predominantly black sections of their cities. Apologists for segregated schools in the North claimed that there was no intent to segregate – segregation was the product of private preferences of blacks and whites to live in communities with people like themselves.

The reasons for separate schools developing in the North might not be important except for a legal practice used to allow the continuation of segregated Northern schools. The doctrine distinguished between unintentional segregation, called '*de facto*' (roughly translated from Latin to mean "in fact") as opposed to '*de jure*' segregation (roughly translated from Latin meaning "by law"). For purpose of simplicity, one can translate *de facto* segregation to mean 'unintentional', while *de jure* segregation would mean 'intentional' separation.

School Segregation in Boston, Massachusetts

In writing his verdict for the *Brown* decision, Chief Justice Earl Warren referred to Boston as an example of a city which had desegregated its schools. The time frame that had come to Warren's attention, however, covered the years, 1849 to 1954. During that time, Boston dismantled a segregated school system and allowed black students to attend the same classes as whites. But segregation has a way of returning. By 1974, some Boston High Schools such as South Boston had no African-American students. [The last one at 'Southie' quit shortly after being dangled out of a third story window.] Other Boston High Schools, such as Roxbury High, were 98% African-American. Altogether, 24 schools were 90 to 100 percent black while 78 were 90 to 100 percent white. In 1974, the Boston School Committee was accused of running a 'dual school system.'

In 1972 the NAACP filed charges against the Boston schools. The case, *Morgan v. Hennigan*, charged that the schools were racially segregated, because of intentional steps taken by the Boston School

⁷ Source: Thomas Ladenburg, *Civil Rights in the Land of Equality*, Arlington Dissemination Center

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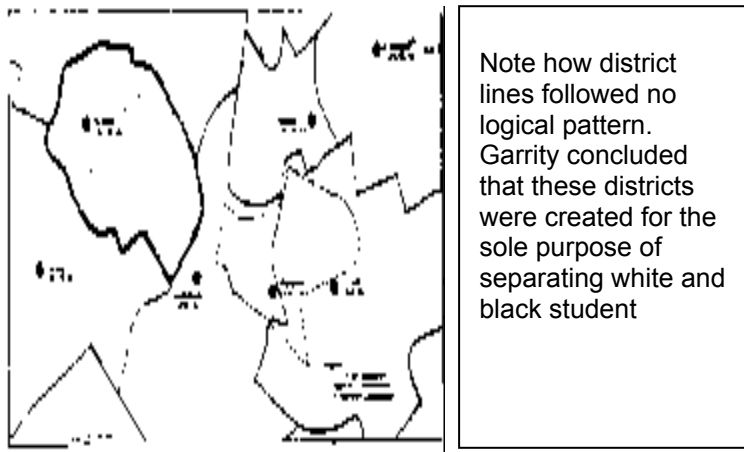
Committee. The NAACP asked the courts to take action to undo what had been done intentionally (*de jure*) and had violated the 14th Amendment rights of African-American students to equal educational opportunities. The School Committee responded by claiming that segregation in Boston was entirely due to the segregated communities, either predominantly black or predominantly white. Segregation in the schools supposedly was *de facto* and not the result of the School Committee's action. Since the schools were not responsible for creating these conditions, they could not be required to correct them.

Facts in the Case

The case brought against the Boston School Committee was tried by Judge Arthur Garrity. Garrity had worked on President John F. Kennedy's election campaign for the Senate in 1958 and for President in 1960. Kennedy later appointed him to his position on the Federal Court. Garrity had a reputation as a fair-minded and impartial judge. But the fact that he did not live in Boston and his children did not attend its schools caused many in the city not to trust him. Whatever can be said of Garrity's motives, no one can doubt his willingness to work. He spent 15 months in deliberation making his decision. Day after day he studied over 1,000 different exhibits presented as pieces of evidence. Night after night he brought work home with him and poured over maps of Boston showing ethnic divisions and school population. Garrity was determined to write a verdict that would not be reversed in appeal to a higher court.

It is impossible at this time to review all of the information that guided Judge Garrity's decision. However, one can draw some conclusions as to whether segregation of the Boston schools was *de facto* or *de jure*, based upon a limited examination of some relevant facts.

Charge: Drawing District Lines to Create Predominantly Black and Predominantly White Schools



The district lines shown in the illustration above had been drawn for 8 school districts, in an area of 2 miles by 3 miles. The result of these lines, claimed lawyers for the NAACP, resulted in "the maximum possible amount of racial isolation," and had the effect of keeping white neighborhoods together to conform with the wishes of the people who elected the School Committee members. They claimed that the lines were intentionally drawn to create or maintain segregated districts, and that they deprived black children of their constitutional right to equal education opportunities. No one has a constitutional right to attend a neighborhood school.

Lawyers for the School Committee argued that these lines were not drawn intentionally to create mostly all white or all black schools.

Charge: Intentionally Segregating the Henning School

The Henning School, capacity of 1080 students, was built in response to Boston's racial imbalance plan in 1965. It was meant to serve students in a predominately black housing project. White students were to be recruited from outside the district. The school opened in 1972, 65 percent black and 13 percent other minority.

The NAACP argued that the Committee had been warned that the school would not attract whites and that students from white elementary schools could have been assigned to attend the Henning School to give it a racial balance. Failure to do so showed *intent* to discriminate

The School Committee argued that it had distributed 50,000 brochures in an attempt to attract white students to the Henning. The Committee said it had done all it could to recruit white students to what became a black school. The Committee could not be blamed for the preference of whites to attend mostly white schools.

Charge: Hiring and Promoting on the Basis of Race

Of 4,243 teachers in the Boston School system with a minority population of 30,000, only 231 teachers were African-American, about 5.4 percent of the total. Furthermore, African-Americans were even a smaller percent of administrators, about 3.5 percent. The following chart shows numbers of black and white administrators by positions:

Category	White	Black
Principle/Headmaster	76	3
Assistant Principle/Headmaster	194	11
Director of Department and Manager	27	0
Supervisor & Consultant	29	2
Truant Officer	46	0
Psychologist	28	0

All three African-American principals were assigned to predominantly black schools with percentages of minority populations ranging from 66% at Emerson to 97% at Timilty.

The School Committee argued that black teachers were assigned to predominantly black schools to provide positive role models for African-American students; and lack of African-American teachers and administrators was due to lack of qualified candidates.

The NAACP argued that there was no record indicating that African-American teachers were assigned to predominantly black schools in order to provide positive role models, and that the School Committee made no consistent effort to find and hire African-American teachers and administrators.

Other Charges against School Committee for Intentionally Segregating Boston Schools:

- Using open enrollment policy to transfer white students out of predominantly black schools, but never for racial balance for which open enrollment was intended.

- Funneling African-Americans into three-year trade schools where they were taught manual skills while white students were directed into academic high schools with a curriculum tending to prepare students for college.
- Installing portable classrooms in order to prevent the transfer of white students into predominantly black schools.

Judge Arthur Garrity's Options

An article in the Focus section of *The Boston Globe*, published the day the suit was filed, predicted one of three outcomes to the decision.•

The Judge could:

- A. Find that the School Committee indeed had not intentionally segregated the schools, and allow *de facto* segregation to continue.
- B. Find the Boston School Committee had intentionally segregated or increased the pattern of segregation in its schools, but not be held accountable for its actions and be allowed to continue its segregating ways.
- C. Find Boston guilty as charged and responsible for making restitution by correcting the segregation it caused. This must involve massive busing because Boston Schools could not be desegregated without transporting students beyond walking distance from their homes.
- D. Find the Boston School Committee guilty as charged. However, desegregate the Boston Schools by busing students to 45 of the neighboring suburbs, all of which had an African-American population of less than 5%.

Suggested Student Exercises:

1. Come to class prepared to argue whether segregation in the Boston Schools was *de facto* or *de jure* and to support one of the four alternatives for Judge Garrity's decision. Make reference to specific charges against the School Committee and the Committee's defense.
2. Decide which of the four suggested options should be required by Judge Garrity, or suggest your own. Your suggestion must consider:
 - a. The meaning of the 1954 Supreme Court desegregation decision.
 - b. Whether the Boston Schools were intentionally segregated.
 - c. The effect of the decision on white as well as on black students.

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- A fourth option has been added

Epilogue

After 15 months of deliberation, Judge Garrity found for the plaintiff, the NAACP, in the case of *Morgan v. Hennigan*. One reason Garrity had taken so long to write his decision was that he did not want to be overruled by higher Federal courts. He succeeded in this objective, for within a year, Garrity's decision was upheld in the next higher court, and eventually in the US Supreme Court.



By the time Garrity announced his opinion, June 1974, the Boston Schools had already closed for the year. With no time to draw up his own plan to desegregate the Boston Schools (and the School Committee did not present him with one) Garrity adopted the state of Massachusetts's plan for desegregating the schools. Garrity admitted that he had not studied it thoroughly and was uninformed of many of its details.

Phase I of the State plan affected 137 schools, including 37 high schools, and involved busing 17,000 of the 93,000 children enrolled in the Boston schools. It allowed seniors in high school to complete their last year in their schools. Otherwise, black and white students were bused into schools that were not in their neighborhoods

Tension was high when school started in September 1974. In the overwhelming number of 137 elementary and middle schools much progress in integrating had already been accomplished. But African-American students arriving at South Boston High School were welcomed by a mob of 400 demonstrators throwing bricks and shouting racial epithets. Policemen had to physically restrain the mob as a handful of black students left the bus and ran into the school. The partially erased graffiti on the front of the school read "...gers go home." Eight African-American students were injured on the ride home later that day. In the meantime, an African-American TV soundman was karate kicked in the back, and a cameraman was thrown across a car. "If what I've been seeing isn't hate," a Jesuit Priest was heard exclaiming, "then I do not know what hatred is."

The Boston School Committee promised to provide Stage 2 of the plan to desegregate the Boston schools, but when on December 11, 1974, an African-American student stabbed a white student in South Boston High, School Committee member John J. McDonough announced publicly that he opposed submitting the plan. McDonough, the swing vote on the 5-member committee, claimed that the plan would "end in the destruction of the City of Boston and the death of one or more individuals." He added that he could not go along with a decision that he thought was wrong.

The School Committee was unwilling to announce its own plan to continue desegregating the schools it had intentionally segregated. In the face of this lack of cooperation, Garrity concluded he had no choice but to continue drawing up plans to desegregate the schools. In drawing up plans for phase II, Judge Garrity relied on a number of "Masters" with prior experience in implementing desegregation plans. But, the final plan submitted to him, Garrity thought, was not thorough enough. So Phase II, in 1975, increased busing from 17,000 to 30,000, students of both races while trying to keep students within one of 9 different pie shaped zones.

Unfortunately Phase II was just as unpopular in South Boston and Charlestown High Schools as Phase I. In other parts of the city it led to a minimum amount of success, with test scores increasing slightly, and some evidence of racial mixing. Despite continued opposition from the School Committee,

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Garrity continued supervising the schools to make certain there was compliance with his desegregation orders.

Critics of Judge Garrity have failed to demonstrate how he could have prevented continued unconstitutional racial isolation of African-American and other minority students. But those who favored integration of the Boston Schools are unable to show real progress in this area given the unprecedented exodus of white students (called 'white flight') from Boston. About 20,000 white students left the Boston schools in the first 14 years since busing was ordered. Those who are left behind are minorities and whites unable to find affordable housing outside Boston or to send their children to private schools.

As of this writing (1999) the Boston Schools have a teaching staff that is more than 20% African-American [Judge Garrity had ordered hiring 1 black teacher for every white teacher until the 20% target goal was reached.] Whites bitterly opposed to integrating the schools no longer win elections in Boston. But despite many imaginative programs [particularly 'magnet' schools] Boston's schools are not much better than they were in 1973. Students in Boston schools, regardless of race, score far below average for their grade level on national tests. Attention for the past few years has focused on improving the Boston Schools rather than integrating them.

In 1999, the Boston School Committee decided to end all racially based assignments to schools, ending a 25 year long attempt to achieve racial balance in the Boston Schools. Whether the attempt should have been made in the first place, and how it might have been made to work will remain subjects for debate among historians and citizens for years to come. •

88888• A report issued in the summer of 2001 by Harvard University's Civil Rights Project, which has been monitoring racial concentration of schools throughout the U.S., has found that the numbers have been increasing. The percent of African-American and Hispanic students in racially isolated schools (defined as 90% minority) has risen from 63 to 70 between 1981 and 1999. Ironically, the report found that minority students were most likely to attend schools with whites in the South, and least likely in northern industrial states such as New York, Michigan, Illinois, and California.