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AUTHOR Aquila, Frank D.
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ABSTRACT

In 1968, the Indianapolis Board of School Commissioners was found guilty of maintaining segregated schools in the district. The history behind and current status of court litigation on this matter are reviewed in this paper. Background information on school segregation in Marion County, Indiana, including a description of the county's racial demography, is provided. In addition, the latest integration plan, supported by the current school board, is outlined. This plan for desegregation on a city only (rather than metropolitan) level, calls for the creation of "magnet" high schools, new junior high schools, and the implementation of an "option plan" for elementary schools. The magnet high schools would offer programs in career education, the fine and performing arts, and the health professions. Under the option plan, parents of elementary school children would be able to select from schools offering a number of traditional and nontraditional approaches to elementary education. (GC)

U.S. v. BOARD OF SCHOOL COMMISSIONERS, INDIANAPOLIS: A CASE IN POINT

Dr. Frank D. Aquila
Associate Professor
Indiana University
School Of Education
Bloomington - Indianapolis

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U.S. v. BOARD OF SCHOOL COMMISSIONERS
INDIANAPOLIS: A Case in Point

INTRODUCTION

Segregation of American schools has within it the seeds to destroy the American educational system and to undermine the basis underlying our nation's origin. This is not an alarmist outcry; rather it is my perception of one alternate American future. In light of the recent shift in Supreme Court interpretation, recent northern and western school desegregation activity has the potential to recreate the dual school system.

We now find an urban school system composed of blacks and browns. This urban core is surrounded by a suburban ring of schools with only whites. Resegregation has exaggerated the problem with attitudes hardening on both sides. The sixties had protests, bus burnings and similar problems. Below the surface the seventies auger an even greater danger. I suggest that peaceful desegregation demands the singular application of all of our country's vast resources for the resolution of this social inequity.

At the local level those involved in the Indianapolis public school's (IPS) desegregation case are accustomed to frustration, to delay, and to a situation which is as insoluble as the present web of misdirection, inaction, and lack of progress which seems to characterize the provision of equal educational opportunity. Three different desegregation plans have been suggested since the case was initiated in 1968, with still another now being proposed by the new school board. The time lapse since the initial filing of the case has caused the public to question whether a resolution of the problem will ever be accomplished.

The new school board favors desegregation although it does oppose the court's metropolitan remedy because this calls for one-way busing which imposes an undue

hardship on the black children being bused to the suburbs. Their action to initiate an Indianapolis-only desegregation plan is a courageous one, not because they decided to act but rather because of the exciting new possibilities of their plan.

There may be problems caused by too rapid system-wide implementation. Yet, the manner in which they are applying educational theories to an actual desegregation situation is revolutionary. Nowhere in the country has it been attempted in a similar fashion. At the high school level the magnet plan combined with a lottery program to guarantee court-mandated racial balance guidelines is not new. Nor is the creation of new junior high schools as a desegregation tool. It is at the elementary level -- where parental concern is always most intensely focused -- that the options plan is a new and exciting approach. The educational soundness of providing optional learning styles which accommodate the different ways children learn is unquestioned. Certainly, the logistics involved in the implementation process must be addressed carefully; but it is most assuredly worth the effort.

PROLOGUE

The Indianapolis school desegregation case is now the longest, active Northern school desegregation suit, originally being filed in 1968. The Indianapolis Board of School Commissioners, the defendants, were found guilty of violating the equal protection clause of the 14th Amendment of the U.S. Constitution through the practice of de jure racial segregation of students. (United States v. Board of Sch. Comm., Indianapolis, Ind., 332 F.Supp. 655 (S.D. Ind.)(1971)). This ruling made by Judge S. Hugh Dillin was appealed to the Seventh Circuit Court of Appeals by the defendant. The Seventh Circuit affirmed the lower court ruling and initial appeal to the Supreme Court led to a denial of certiorari in 1973. (474 F.2d 81 (7 Cir.), cert. den. 413 U.S. 920, 93 S. Ct. 3066, 37 L. Ed. 2d 1941 (1973). The Supreme Court ruling in Milliken v. Bradley (418 U.S. 717 (1974)) led to a further appeal and evidentiary hearing regarding a metropolitan remedy.

The Supreme Court has again remanded the case back to the Seventh Circuit Court of Appeals for review in light of the Washington v. Davis and the Arlington Heights cases. The case has, therefore, been reviewed by the Seventh Circuit on four different occasions. The Seventh Circuit has sent the case back to Judge Dillin for his reconsideration, attaching several advisory comments. These comments will add to his task of reviewing the case especially with the more recent actions of the Supreme Court.

During the long history of the litigation, the composition of the Board of School Commissioners has changed. The present majority actively supports the elimination of the segregative conditions. All seven Indianapolis school board commissioners are elected at one time but only four serve the first two years. Thus there will be three new members joining the board with the 1979 school term.

At that time all seven board members who were elected in the 1976 election will serve at the same time. All seven members will then be of a similar position regarding the school desegregation case.

The present board has adopted a position opposing Judge Dillin's ruling which calls for the one-way busing of black children. It is their position that this places an undue hardship upon those who have been discriminated against. The board has also encouraged the development of the options program. This program is one of the newest, most exciting attempts to desegregate, especially at the elementary level, that the author has ever encountered. In addition to an educational option's plan at the elementary level there will be newly created junior high school zones and a magnet school program at the high school level.

HISTORY OF THE LITIGATION

To date there have been five phases to the Indianapolis school desegregation case. These phases are: (1) Judgement, (2) Remedy, (3) Interdistrict remedy, (4) Appeal of interdistrict remedy, (5) Present status. Each phase will be discussed below as well as a discussion of the possible options available to the district court.

Judgement: The first segment of the Indianapolis case was the finding of racial desegregation within the Indianapolis Public Schools. This was the sole issue of contention during the initial phase. Judge Dillin, Federal District Judge for the Southern District of Indiana, reviewed the past history of the Indianapolis public schools since 1949, the year that Indiana made segregation through the use of a dual school system an illegal state policy. Judge Dillin ruled the Indianapolis school district was guilty of de jure segregation. At that time, he ordered the United States Justice Department to add other school districts in the

metropolitan area as additional defendants. This was done in order to provide the setting necessary for consideration of a metropolitan remedy. The United States Justice Department complied with his order. Additionally, the Buckley children were added as plaintiffs. This was necessary as they represented a class of black school children being discriminated against within the Indianapolis Public Schools (IPS). The intervening plaintiffs were added at the same time that additional defendants, school districts and officials, were added.

Indianapolis appealed the decision of the federal district court. On appeal, the Seventh Circuit concurred with Judge Dillin finding that there was "a clear pattern of purposeful discrimination in the gerrymandering of school attendance zones, in the segregation of faculty, in the use of optional attendance zones among the schools and in school construction and placement. There was a pattern of decision making which....reflected a successful plan for de jure segregation." (474 F.2d. 81 (7 Cir.), July 16, 1976, pg.3)

Remedy: After the finding of illegal segregation, the court dealt with the fashioning of a remedy to overcome the de jure segregation. A major issue was the constitutionality of the Uni-Gov Act. The court ordered the remedy without actually deciding the question of Uni-Gov. It felt that a desegregation plan with a possibility of being effective could not be accomplished within the boundaries of IPS. This finding was based on evidence that in any given school district when the percentage of blacks approaches 25-30%, a phenomenon called "white flight" occurs. As the rate of white migration accelerates, the result is resegregation. The court also found that the State of Indiana, its officials and agencies through their actions and omissions, promoted segregation and inhibited the efforts for desegregation. Because the State is ultimately charged under Indiana law with the

operation of all public schools, it had a continuing affirmative duty to desegregate the Indianapolis school system.

The court, therefore, ordered a broad interdistrict remedy which involved the entire metropolitan area to include school districts outside of Marion County. The federal district court held that it was the duty of the State, through the General Assembly, to devise a plan for desegregation. If the State failed in this regard, the court held that it could formulate its own plan. As an interim relief measure, the court ordered IPS to effect a pupil reassignment program during the 1973-74 school year. The purpose of this action was to ensure that the number of black pupils in each of its elementary schools be approximately 15%.

In response to the court's order, IPS submitted a desegregation plan. The court rejected this plan as inadequate, appointing a two-member commission to develop another plan. The two individuals were Dr. Charles Glatt, Ohio State University, and Dr. Joseph Taylor, Indiana University-Purdue University at Indianapolis. Their plan was approved by the court and a major portion of that plan was implemented.

The court also ordered IPS to transfer to the defendant school districts a certain number of black pupils which would be equal to five percent of the 1972-73 enrollment of the transferee school. Pike and Washington Township were excluded from the initial phase of this because of increasing minority enrollments. This latter portion of the court's order regarding transfer of students to suburban schools was stayed because of subsequent appeal actions. The court's plan calling for one-way busing of black children has been the subject of criticism because of the fact that it placed an unfair burden on the victims of the discrimination.

Interdistrict Remedy: During the third phase of the suit, the court issued

supplementary opinions recommending certain actions by the State of Indiana. In response, the General Assembly adopted a bill which provided for a tuition adjustment between transferring and receiving districts. A reimbursement of transportation costs would be made by the State when a federal or state court issued certain findings; (Indiana Statute, Acts 1974, P.L. 94, Para 1; I.C. 1971, 20-8.1-6.5-1 Burns Ind. Stat Ann Para 28-5031 (1971)).

The Seventh Circuit affirmed the two-member commission's interim desegregation plan. It also affirmed Judge Dillin's holding that the State of Indiana, as the ultimate body charged with the operation of public schools, "has an affirmative duty to assist the IPS Board in desegregating IPS within its boundaries". (United States v. Board of School Commissioners, 503 F.2d 68, 80 (7th Cir, 1974), cert. denied, 421 U.S. 929). The Milliken v. Bradley decision (418 U.S. 717 (1974)) had just been issued by the Supreme Court when Judge Dillin's holding was affirmed by the Seventh Circuit. Because of this, the Seventh Circuit reversed Judge Dillin's order requiring an interdistrict remedy outside of Uni-Gov. This action released those school districts outside of Marion County from the court case. That portion of the order which pertained to the interdistrict remedy within Uni-Gov was vacated and remanded for further proceedings. The district court would then decide whether the establishment of the Uni-Gov boundaries, without a similar establishment of IPS boundaries for the same area, warranted an interdistrict remedy in accordance with Milliken.

Appeal Of Interdistrict Remedy: The fourth phase of the case involves the most recent ruling by Judge Dillin. He found that the State was guilty of inhibiting desegregation because the General Assembly, by expressly eliminating the schools from consideration under Uni-Gov, signaled its lack of concern for the whole problem, and thus inhibited desegregation of IPS. He further stated that the

suburban Marion County school districts had resisted civil annexation so long as civil annexation carried school annexation with it. They ceased this resistance only when the Uni-Gov Act made it clear that the schools would not be involved (474 F.2d.81 (7 Cir), 1976).

Additionally, he found that the suburban districts resisted the development of public housing projects by refusing to cooperate with HUD on the location of these projects. Their efforts were designed to discourage blacks from purchasing or renting homes in the suburbs. As a final point, he noted that the Housing Authority of the City of Indiana (HACI) actively avoided locating HACI public housing outside of IPS territories. In fact, in several instances these projects were developed just across the street from territory served by a suburban school corporation.

HACI did have certain countywide zoning restrictions during the construction of ten of the eleven housing projects. But, HACI, at all times, had the authority to erect public housing in IPS territory and within five miles of the corporate limits of Indianapolis. Because the location of public housing tends to cause and perpetuate segregation of IPS pupils, this instrumentality of the State and, therefore, the State of Indiana was found guilty of perpetuating segregation.

Thus, in this phase of the court decision, the federal district judge ruled that an interdistrict remedy was necessary to effect desegregation within IPS. He again pointed out that if desegregation were limited to IPS, the district would become 42% black and this percentage exceeded the tipping point at which resegregation would appear. Judge Dillin then ordered the transfer of 6,533 black students from IPS to other school districts in Marion County. During the second year of the plan, an additional 3,000 students were to be transported. This would raise the proportion of black students in the suburban districts to 15%. IPS would be

obliged to pay suburban districts the cost of educating the transferred pupils. Again, Washington and Pike Township school districts were left out of the order since they already had black populations of 12% and 4%. Additionally, the court ordered the Housing Authority not to build any new housing projects in IPS territory and not to renovate an all-black project (Lockfield Gardens was being considered for renovation.). The Buckleys were also awarded attorney fees. And, of course, all defendants then appealed. The school districts challenged the interdistrict transfers while HACI challenged the injunction against it. The U.S. Justice Department argued that the finding of interdistrict violation should be sustained but sought modification of the portion of the order calling for mandatory interdistrict transfers. It argued for affirming the injunction against the Housing Authority.

Present Status: During the summer of 1977, the Supreme Court remanded back to the Seventh Circuit Court of Appeals the Indianapolis case for further consideration. The Court stated that the three-judge appeal panel should consider its findings in light of two more recent court decisions, the Washington v. Davis case and the Arlington Heights Case. The Washington v. Davis Case concerned discriminatory intent and the Arlington Heights Case concerned suburban housing patterns, both key issues in the Indianapolis case.

After a protracted period, the Seventh Circuit of February 18, 1978 tossed the case back into the lap of Federal Judge S. Hugh Dillin for further hearings. In addition, they proffered certain recommendations based on further analysis of the case. In effect, this may lead to another evidentiary hearing called by Judge Dillin to determine whether illegal discrimination occurred in the Indianapolis Public Schools. The effect of the two recent Supreme Court decisions requires that, in essence, there must be proof that the segregatory effect of

government officials' actions was a result of prior intent to discriminate. The word "intent" is the operative word. Establishing proof of intent is what caused the difficulty for the Appellate Court. The U.S. Justice Department has taken the position that the discrimination does not meet the "invidious discrimination" standard established for a metropolitan remedy.

Judge Dillin will need to determine whether the formation of Uni-Gov, the restriction of public housing projects to the central city, and those other actions which confine the black population to the city school system were based on a discriminatory intent. One view holds that it is not necessary to prove a subjective prior motivation of state officials. This school of thought believes that such a test "would pose an inpenetrable evidentiary barrier for plaintiffs, for in an age when it is unfashionable for state officials to openly express racial hostility, direct evidence of overt bigotry will be impossible to find." (Indianapolis News, 2-17-78, page 4).

Possible Actions Of The District Court: Now that the case is back in the hands of Judge Dillin, he will have several options. He may review the record of the case and conclude that the intent requirement cannot be satisfied. He would thus dismiss the case and the suburban school systems would be released from the litigation. If he did this, the Indianapolis Public Schools would then have to desegregate within the boundaries of IPS alone. This is similar to what has occurred in Detroit, Michigan.

The second option would be for Judge Dillin to reopen the case to evidentiary hearings. It would then be up to the attorneys for the plaintiffs to produce more evidence to substantiate the intent to discriminate on the part of suburban districts. Obviously, this would require prolonged litigation, and if past history is a precedent, further appeals would follow.

The third option, one that has not been considered in recent years, is for Dillin to work toward an out-of-court settlement. This may occur since Judge Dillin has attempted an out-of-court settlement on several occasions. In recent months, prior to the Supreme Court's action to remand the Indianapolis case back to the Seventh Circuit, there had been a dialogue among the attorneys for the Metropolitan School Districts and the Indianapolis Public School district focused on considering an out-of-court settlement. There are several possibilities for such a settlement. A simple method would be for the suburban schools to annex certain public housing projects on the periphery of the IPS, which would avoid the busing issue as well as the interdistrict actions. A further advantage is that tuition exchange payments would not be involved, thus relieving IPS of a financial liability while at the same time avoiding the distasteful one-way busing to which the new school board seems strongly opposed. This would also allow the school board to continue with its IPS-only desegregation plan which involves magnets at the high school level, the elementary school options plan, and the creation of junior high schools.

BACKGROUND INFORMATION

Historical Review: The State law of Indiana before 1869 prohibited blacks from attending public schools. The Indianapolis public school system enforced that state law, as did all city schools in Indiana. In 1868 with the ratification of the Fourteenth Amendment to the U.S. Constitution, Indiana law was amended so as to allow blacks to attend public schools (Chapter 16, Para 2, (1869) Ind. Acts 41 repealed (1949)). The Indiana Supreme Court soon ruled that this law did not entitle black students to attend school unless a black public school was available in the district. Therefore, the law did not entitle black students to attend white schools (Cory v. Carter, 48 Ind. 327, (1874)). This policy of separate schools for blacks and whites which was required by state law prevailed in Indiana until it was officially abolished by the Indiana General Assembly in 1949 (Ch. 186, Para. 1 (1949) Ind. Acts 603, repealed (1973)).

Thus, the Indianapolis Public Schools operated a dual system of public education from 1869 onward. Thus, a segregated public educational system was the official policy of the Indianapolis public schools from 1849 to 1949. It was the finding of Judge Dillin that this dual system was maintained, in fact, long after 1949 and even after Brown[1] (347 U.S. 483 (1954)).

The dual school system extended to the high school level from 1927 onward when Crispus Attucks High School was opened as the city's all-black high school. Prior to 1927 blacks attended their neighborhood high school but after 1927 all blacks were required to attend Crispus Attucks. It is interesting to note that the black students

attending Crispus Attucks had to ride in streetcars, buses and other facilities for long periods of time, often more than an hour one way in order to attend high school.

There was considerable support for the construction of Crispus Attucks in the black community. Of course, this is understandable for many reasons in 1927, not the least of which was because it created teaching positions for blacks. Prior to the opening of Crispus Attucks, blacks were not permitted to teach in the high schools of Indianapolis.

Demographic Information:

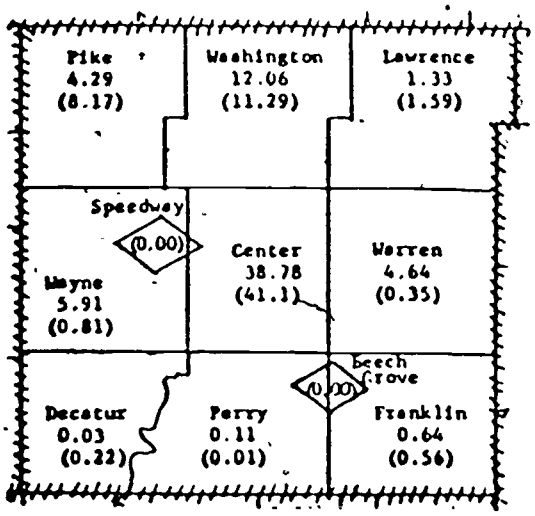
1) When Uni-Gov was created in 1969, 95 percent of the minorities in Marion County lived in Indianapolis. Since then the black population has continued to grow within the core city. At the same time the percentage of black students in IPS has increased from 36 percent in 1968 to 42 percent in 1975.

2) The black-white ratio in IPS in 1974-1975 was 57 percent white to 42 percent black. This compares to an over-all ratio for Marion County of 75 percent white to 25 percent black.

3) The percentage of black students and black residents in Marion County by district is indicated below in the following map.

The black population in Marion County is reflected by the following map.

1973
Percentage of Black Residents in Marion County
(Percentage of Black Students in Marion County Schools)



4) For the school year 1974-75 the racial composition of the suburban Marion County district was as follows:

Township	Percentage of White	Percentage of Black
Decatur	99.83	.90
Franklin	99.35	.54
Lawrence	95.50	2.90
Perry	98.64	.23
Warren	98.61	.73
Wayne	97.87	1.19
Beech Grove	99.64	.04
Speedway	99.10	.72

Uni-Gov:

1) Until 1969 the boundaries for IPS generally corresponded to the boundaries of the City of Indianapolis. The other Marion County schools, therefore, were then truly suburban in nature. In 1969 the so-called Uni-Gov Act, officially the "First Class Consolidated Cities and Counties Act," ("Acts 1969, Ch. 173, Para 101; I.C. 1971, 18-4-1-1 et seq., Burns Ind. Stat. Ann. 48-9101 et seq. (1971)) transformed Marion County into a consolidated metropolitan government. Specially excluded from Uni-Gov were the suburban school districts. A consolidated school district corresponding to the metropolitan government boundaries was not established with each suburban school system retaining its historical boundry lines.

2) Uni-Gov is governed by a mayor and council. Its purpose is to efficiently reorganize civil government on a county basis. Previous to Uni-Gov there had been various governmental responsibilities with overlapping jurisdictions throughout the Marion County area. With Uni-Gov municipal services such as police and fire protection are provided district wide. The exclusion of schools thus becomes a major issue in court litigation.

3) Uni-Gov has not replaced all previous governmental units in Marion County. There is still an Airport Authority, Building Authority, county courts and hospital corporation which are excluded from Uni-Gov. Additionally, excluded cities such as Speedway, Perry and Lawrence retain their local governments and provide municipal services in various areas. Nevertheless, Uni-Gov has extensive powers even in the excluded cities. For example, it handles

air pollution regulations, building code enforcement, municipal planning and thoroughfare control. Additionally, the citizens, even in the excluded cities, vote in the Uni-Gov elections.

Housing Authority for the City of Indianapolis:

1) The Housing Authority for the City of Indianapolis (HACI) built for occupancy ten housing projects for low income families between 1966 and 1970. These ten projects and one other, Lockfield Gardens (Lockfield Gardens being one of the first public housing projects built during the Depression) are the only public housing projects available for occupancy in Marion County.

2) All ten public housing projects were built within the boundaries of IPS. When they were opened, there was 50-75 percent black occupancy. Now these projects are more than 98 percent black.

3) Under Indiana State law HACI has the authority to construct projects within Indianapolis as well as five miles outside of the city boundaries. Federal funding can only be obtained if HACI enters into a cooperative agreement with the municipality or other governmental entity which has jursidiction over the territory. While the city of Indianapolis has entered into such an agreement at no time have the county units of government agreed to allow a housing project to be built in their territory.

4) Since Uni-Gov in 1964, the HACI has had the authority to construct projects outside the old city limits (with the exception of the excluded towns of Speedway, Beech Grove and Lawrence). After Uni-Gov there was no need for cooperative agreements. Yet, no housing projects have been built during this period of time. While there is no evidence as to the reason for this, it is known that there are over 3,000 applicants for family housing pending.

5) While HACI claimed that there were no suitable sites outside of Indinapolis because services such as public transportation were not available, the evidence does not support this contention. Public transportation routes could easily have been extended, on a showing of need, as could food stamp distribution centers and other services. Surprisingly, six of the ten housing projects were built on IPS outer boundary lines, some within a few blocks of a joint IPS/metropolitan boundary line. In some cases the location of the housing projects on one side of the street dictated that all students in the housing project attended IPS while students living across the street would go to a metropolitan district school.

School District Boundaries:

1) Until 1969, because of various laws, noted below, IPS boundaries were largely coterminous with city boundaries. Under a 1931 act the boundaries of IPS were made coterminous with those of the city. (Acts 1931, Ch. 94, 1; I.C. 1971, 20-3-11-1, Burns Ind. Stat. Ann. 28-2601 (1971)). Boundaries of school districts and municipalities until 1959 were also coterminous in Indiana, although there were some exceptions. Thus, IPS boundaries merely reflected generally prevailing conditions.

2) In 1959 the Indiana School Reorganization Act, ((Acts 1959, Ch. 202, 1; I.C. 1971, 20-4-1-1 et seq., Burns Ind. Stat. Ann. 28-3501, n (1941)) created a complex scheme for consolidating school districts. Consolidations under this act reduced the number of school districts outside Marion County from 990 to 305. Thereafter, 70 percent of the reorganized districts were no longer coterminous with other units of civil government. In fact, some district even

crossed county lines.

3) Marion County, however, was an exception. School districts in Marion County were not consolidated, even though the Marion County Reorganization Committee, appointed pursuant to the act, initially recommended that all city systems in the county be merged into one. There was unanimous opposition from the suburban school districts. This opposition led to the defeat of the merger proposal.

The court has stated that there is no evidence that this opposition was racially motivated. (There is some doubt in the author's mind, although proving racial intent behind their actions will prove difficult). The most substantial reasons given for vetoing the merger proposal were: (1) the size of the merged district and (2) increased school taxes in IPS and two of the suburban districts. Therefore, while the arguments in favor of the single-district merger plan outweighed the opposing arguments, the committee reversed itself and proposed a plan which froze existing school corporations in Marion County according to the existing 1961 boundaries. Thus, the plan adopted in 1962 after approval by the State made no significant boundary changes in Marion County, leaving those boundaries coterminous with those of civil government.

4) As a result of the 1959 Reorganization Act, school boundaries in most of Indiana were frozen and, therefore, unaffected by municipal annexation. Special legislation was enacted in 1961 to give schools within Marion County flexibility lost by the 1959 reorganization. Under the 1961 act, extension of the boundaries of the civil city automatically ended the corresponding school boundaries unless the school city and the losing school corporation

mutually agreed that the city school territory would not expand with the civil city. The school district losing territory could also oppose the annexation in the remonstration suit.

These annexation powers thus proved to be illusory, as they were effectively hindered by remonstrance litigation. Therefore, until 1969 the combined action of the State of Indiana political subdivisions (in Marion County) had the effect of leaving the boundaries of Indianapolis and IPS substantively the same despite school districts' consolidations made under the 1959 act. It was expressed in the 1961 legislation that IPS would extend along with the city. At lease this was the intent. Sixteen days before Uni-Gov was adopted, an act was passed amending the 1961 act by abolishing the power of IPS to follow municipal annexation.

Appeal Considerations:

1) The question of appeal by the Seventh Circuit and now by Judge Dillin surrounds the issue of whether the interdistrict remedy ordered by the Federal District Court is supported by the record and the legal principles enunciated in Millikan v. Bradley. The two major issues under contention are: (1) whether the establishment of Uni-Gov boundaries without a similar establishment of IPS boundaries warrants an interdistrict remedy within Uni-Gov, and (2) whether the district court correctly enjoined the Housing Authority of the city of Indianapolis from locating additional public housing projects within IPS or from renovating existing housing facilities. (For other than the elerdy.)

2) Several major issues established by the court regarding Millikan have relevance for the IPS desegregation case:

a) The controlling principle enunciated in Swann (402 US 16) is that the scope of the remedy should be determined by the nature and extent of the consititutional violation that has occurred. Therefore, before boundaries of autonomous school districts may be set aside by consolidation through a cross-district remedy, it must be proven that there has been a constitutional violation within one district that produces segregative effects of significance in other districts.

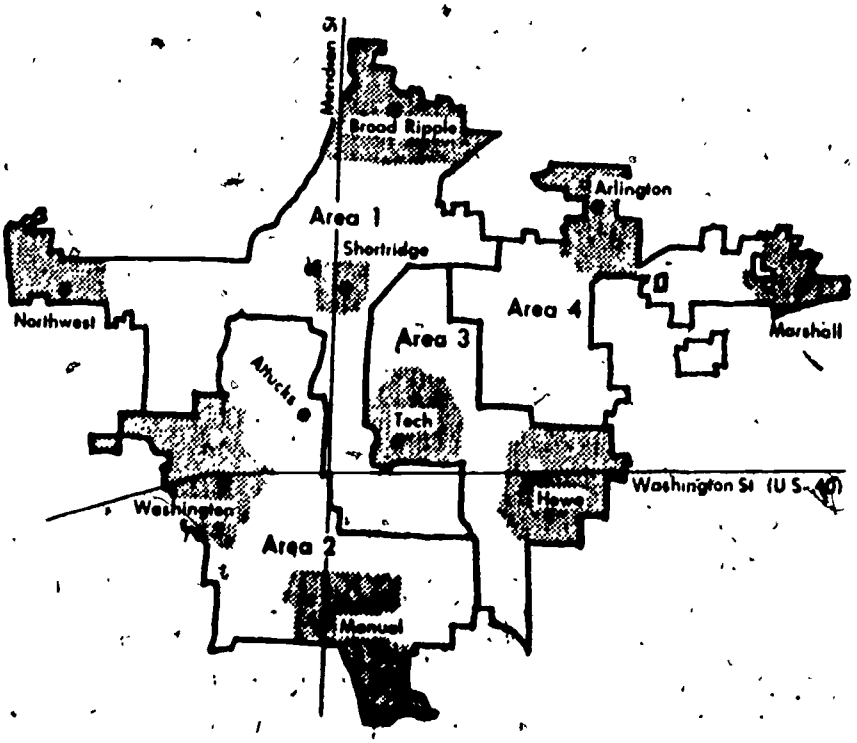
b) Specifically, it must be shown that racially discriminatory acts of the state or local school districts, or of a single school district, have been substantial cause of the segregation. Therefore, in certain circumstances, an interdistrict remedy would be appropriate to eliminate the district segregation caused by the constitutional violation; likewise, without an interdistrict violation with an interdistrict effect, there is no constitutional wrong calling for an interdistrict remedy (Millikan v. Bradley 418 US 717, 744-45).

IPS-ONLY DESEGREGATION PLAN

The Indianapolis Public School system has filed a motion urging Judge Dillin to approve a city-only school desegregation plan which it wishes to implement next fall, regardless of the outcome regarding a metropolitan remedy. It is the contention of IPS that this city-only remedy is compatible with the inclusion of suburban schools if a multi-district remedy is effected. The IPS-only plan is basically a 60-40% racial balance plan. The plan has three components including: (1) an options education program at the elementary school level; (2) new junior high school districts at the intermediate level; and (3) a magnet school with a lottery approach at the high school level.

High School Magnets and New Junior High Schools:

City-Only School Plan



This map describes the city-only desegregation plan. The city is divided into four attendance areas. Students who live in the shaded areas around the high schools may attend those schools. Those outside of the shaded areas would participate in the lottery and would be permitted their first choice from among high schools in their attendance zone, as long as racial balance of the schools is within the 60-40% range.

This high school plan, intended to be introduced beginning with next year's ninth grade class, also calls for special magnet programs. Because of their curricula, design, and special appeal, the magnets should draw students from across the city on a full or a part-time basis and would achieve the racial balance requirements established by the court. These programs include a career education magnet at Arsenal Technical High School, a fine and performing arts magnet at Shortridge High School, and a health professions magnet at Crispus Attucks High School. The School Board plans to create in each of the four high school attendance areas new junior high schools to which students would be assigned, this selection serving the goal of desegregation.

Option Plan: It is at the elementary level that the plan is most interesting and most difficult for parents to understand and, in some cases, to accept. Some factors which elicit parental concerns are the age of the children involved, fears about safety, and a strong identification with their own neighborhood. Elementary pupil assignments will be determined by a combination of factors, including the high school attendance area in which they live, the educational options choice which parents and pupils make in March

and April, 1978, and the racial balance standards established by the court for each school building in the system. This standard calls for a 60-40% white/black balance in each school.

The Indianapolis public schools have moved forward and intend to implement their city-only desegregation plan system-wide in the fall. It should be understood that prior to implementation the IPS must receive the approval of Judge Dillin, without whose approval all of their actions and efforts are for naught.

The core of the elementary desegregation plan is the encouragement of parents to select an educational option for their child. An intensive community relations and publicity program has been developed in order to inform the community about the several options. There is a concern on the part of some members of the community, especially the minority community, that this public relations effort was initiated too late. The options elementary programs which are available include: (1) Back-to-Basics; (2) Traditional; (3) Continuous Progress; (4) Open Concept; (5) Montessori; (6) Developmental; and (7) An Alternate Choice.

Option No. 1: Back-To-Basics: This is an educational program which emphasizes the three R's of reading, writing, and arithmetic. Strong discipline and an adherence to a value system is encouraged. The program calls for the following:

1. Completely self-contained classroom
2. Schedule of instruction is the same for each student
3. Six grade levels per school
4. Grades 1,2, and 3 stresses 3 R's, geography and P.E.
5. Grades 4,5, and 6 stresses 3 R's, history, georgraphy, science, music, art, and character education.

The back-to-basics option would have a classroom which requires:

1) emphasis on drill, recitation, and phonics, (2) no experimentation in instruction, (3) letter grades given in all subjects based on tests, (4) daily homework at all grade levels, (5) completion of all grade level work for promotion, and (6) strong parent support for homework, dress code, and behavior code. A student attending the back-to-basics option would spend one-half to three quarters of his/her day with reading, writing, and arithmetic. One teacher would present all subjects to the whole class all day.

Option No.2: Traditional: This is an education program which emphasizes academic instruction and personal development through the teaching of all academic subjects in one classroom, it is basically a teacher-centered instructional program. The following would be typical of the traditional program:

1. Teacher uses varied instructional methods
2. Uniform time allocation for subjects
3. Students are placed in sub-groups in classroom based on achievement of the subject area, personal development, teacher judgment.
4. Six grade levels per school, self-contained classrooms except for special subject areas

The traditional classroom would provide: (1) emphasis on developing subject areas, (2) mainly large group, some small group and individual study groups in self-contained classroom, (3) emphasis on activities which promote social growth as well as subject matter, (4) grading based on teacher judgment of mastery, (5) varied homework at different grade levels, and (6) promotion based on achievement and personal development of child. A typical day for an elementary child who has selected Option No. 2 would operate according to a regular time-schedule within which set times are established for each subject area.

Additionally, students would be divided into small groups for certain types of instruction.

Option No. 3: Continuous Progress: This is an educational program which requires the mastery of a defined curriculum, within which each student is allowed to progress at his/her own rate. The continuous progress option, a student-centered program, provides the following:

1. School divided into a primary division and an intermediate division
2. Stresses all subject areas
3. Students regrouped in academic subjects whenever necessary
4. Teaching directed to pupils' needs
5. Frequent evaluation of student progress

The continuous progress classroom presents a relatively different program from that of a traditional school. In this classroom: (1) teachers teach different groups of children, (2) there are fewer levels of instruction in each classroom, (3) students get more individualized instruction, (4) grades are based on achievement, (5) frequent reports are submitted to parents, (6) promotion is based on achievement and personal development of child, and (7) promotion occurs at end of primary and intermediate divisions. Typically, teachers would teach different levels of the subject area. Therefore, children have several teachers during the school day, instructing the children at the level at which they are achieving, with their interests in mind. A child would be involved with different students at different times of the day.

Option No. 4: Open Concept: This educational program emphasizes the needs of the individual student in each of his/her classes. An open concept is a non-graded approach and utilizes team teaching.

This is basically a student centered program involving:

1. Subjects based on child's interest
2. Students of different ages grouped in teams
3. Grouping for instruction in team area
4. Flexible schedule for instruction.
5. Goals are set by teachers and students
6. No separate grade levels

Because team teaching is utilized the school environment does, in fact, operate non-traditionally. The team arrangement provides for (1) a wide variety of teaching methods, (2) many different types of materials, (3) no letter grades, teacher using checklists and comments, (4) homework given on an individual student basis, (5) no formal promotion with each student going to the next level of work when ready, (6) required parent-teacher-student report and conferences. In the open concept school the student works at his own pace and will spend as much time on a subject as he needs or wishes. Most important, a team of teachers will teach all subjects to a common group of students.

Option No. 5 Montessori: This is a highly publicized educational approach for teaching young children, based on a complete adjustment of instruction to the stages of a child's development. These are the main elements of the Montessori school option:

1. Grades 1-3 only in 1978-79
2. Students "work" with freedom of movement
3. Long blocks of time for learning and practicing activities
4. Non-graded
5. Emphasis on motor skills, sensory, cultural, and language experiences.

The Montessori school provides a student-centered environment which is different from the conventional including: (1) groupings by 3 year age span, (2) choice and practice of activity which are self-motivated, (3) environment consisting of carefully constructed

Montessori materials and instructional devices, (4) individual interests and self-satisfaction which are stimulated, and (5) programmed materials guide choices. Typically during the day the child will pursue selected activities individually and in small groups. A child selects an activity and "works" individually as long as he/she remains interested. Games, the use of equipment, general lessons, songs, and stories are all conducted as group activities.

Option No. 6, Development: This is an educational program which is based on decision making by the students, giving them the opportunity to select that which they wish to learn. A developmental school is characterized by:

1. Freedom for each student - no schedule
2. Learning by doing - designing and completing projects
3. Student seting own learning goals and making own decisions
4. Frequent use of the community as a classroom

The developmental school may be categorized as a social change school. In this school one will find: (1) informal classrooms organized around student interests, (2) students of different ages in the same room, (3) frequent use of facilities away from the school, (4) teachers talking with one student or a very small group, and (5) no grades-progress reports given to parents and students during conferences, and (6) great flexibility in length of school day. During a typical day the child will work independently on projects in various parts of the school. As an example, a student may go to the library to research a topic. She/he could ask a teacher or friend for help or even leave the school environment to find additional information.

Option No. 7, An Alternate Choice: This is not an educational Option. Rather, it allows the parents to request that their child remain in the school presently attended. It should be realized (in some cases it is not understood, as yet) that the child will be allowed to remain in the same school only if this can be done within desegregation guidelines. Therefore, if a child wishes to attend his neighborhood school and that school is already 60% white or 40% black, the student will be assigned to another building.

No parent is required to select an option for September, 1978. For those who do not select an option in 1978, puipl assignment will be made in the same manner as in 1977, subject to the 60-40% racial balance requirements of the desegregation plan. In 1979 a further opportunity to participate in the option selection procedure will be provided.