

PASADENA

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PASADENA, CALIFORNIA, LOCATED roughly ten miles northeast of downtown Los Angeles, had a public school enrollment of slightly more than 31,000 during the 1964-65 school year. The racial distribution was 68.9% Caucasian, 21.1% Negro, and 9.9% Mexican-American and Japanese. The surrounding communities have essentially no minority group population and it is expected that migration of minority group members will continue to be concentrated in Pasadena. The residentially segregated pattern of the typical Northern city is conspicuous in Pasadena. The all-Negro neighborhood is present as is the totally white neighborhood. The intermediate areas contain various degrees of segregation.

The Negro population of Pasadena—constituting 20% of the city's population—is worse off both economically and educationally than the white. The Negro median income in 1960 was \$4,821, while that for the entire city was \$6,922. (One of the all-white neighborhoods, Linda Vista, had a median income of \$14,170.) Nonwhite Pasadenians, twenty-five years or older, at the median had completed 11.5 years of school, compared to 12.4 years for the city and 14.9 years for the Linda Vistans. There is, however, a significant Negro middle and upper-middle class element present which has provided effective leadership for civil rights activities within the city.

EDITORS' NOTE: *This is a condensation, prepared by the staff of the Law & Society Review, of Professor Cohen's larger study ("Racial Imbalance in the Pasadena Public Schools," 49 pp.) conducted for the United States Office of Education in 1965-66.*

The neighborhood school concept is fully operative in Pasadena, hence the school enrollments reflect the composition of the neighborhoods and range from essentially all-Negro to fully white. In 1965, 19 of the 28 elementary schools had less than 10% Negro enrollment (10 had less than 1%), 5 had over 60% Negro enrollment, and the remainder ranged from 27% to 39%. With the rapid growth of the Negro population in Pasadena, this racial imbalance will increase unless the neighborhood school concept is modified.

In 1965 the total enrollment in the five junior high schools was just over 7,000, of which 20% were Negro. The Negro enrollment in these five schools ranged from zero to 67%. At the time of the controversies to be described, there were only two high schools in Pasadena (since then a third has been built), with a combined enrollment of approximately 7,000. The percentages of Negro enrollment were 5.5% and 29.3% (of the 460 tenth graders attending the new school, 22% were Negro). In general, the high schools are highly regarded educational institutions.

The racial controversy in the Pasadena public schools had its origins in the early 1950s. In mid-1953 the local branch of the NAACP demanded that the Pasadena Board of Education refrain from a program of (1) expanding the capacity of the all-Negro elementary schools while white schools operated at less than capacity, (2) allowing broad transfer policies, and (3) maintaining "neutral zones" where students were permitted their choice of schools. These neutral zones, which had originally been designed to permit adaptation to population growth, permitted the white students to "escape" those schools with higher Negro enrollment. For instance, white students living within attendance zones of the three predominantly Negro schools were freely allowed to transfer out.

In response to these demands of the NAACP, the School Board approached the County Counsel for his opinion on the legality of its transfer and neutral zone policies. County Counsel, considering the policies in light of *Brown v. Board of Education*¹ (which had been handed down in the interim period) warned that the Board would be in violation of the Constitution if its policies contributed to the separation of the races in the public schools. He advised that the Board take action "to render its position less vulnerable from a legal standpoint." Apparently, the Board's response was to adopt compact and defensible elementary school attendance zones, with restrictive and objective interdistrict transfer policies.

1. *Brown v. Board of Education*, 347 U.S. 438 (1954).

This application, however, of a more rigid neighborhood school policy led many families to move away from the high Negro attendance areas or enroll their children in private schools.

The late 1950s saw a rapid increase in the Negro population of the Pasadena School District, with a corresponding increase of racial imbalance in the schools. By 1961 it was clear that not merely one or two but a tier of elementary schools across the western end of the city were, or were becoming, predominantly Negro.

THE LINDA VISTA CONTROVERSY

In 1960 the all-white La Canada area withdrew from the Pasadena Unified School District. Linda Vista, a well-to-do all-white section of Pasadena, had traditionally sent its children to the La Canada Junior High School. As of July 1961, however, these children would have to attend some other Pasadena junior high school. The Pasadena Board of Education, at the request of the Linda Vista PTA Fathers' Council, called a meeting at the Linda Vista Elementary School for November 29, 1960. The agenda concerned the future placement of Linda Vista's junior high students.

The facts were developed as follows: the Washington School, 2.5 miles from Linda Vista, was operating at capacity and busing would take approximately 26 minutes; McKinley, 3.7 miles from Linda Vista, had room for expansion and busing would take roughly 25 minutes. Washington, however, was 50% Negro, while McKinley was only 7% Negro. Although relative distances and busing times were the most discussed issues, a number of parents' frank reference to the racial makeup of the schools betrayed the primary concern of many. Many of the white and well-to-do parents were concerned about the possibility of their children attending the heavily Negro Washington School, even though it was a mile closer to the area than McKinley. On the other hand, busing the Linda Vistans to the predominantly white and more distant McKinley School would worsen an already unbalanced racial distribution between the two schools and violate the neighborhood concept. Then the Superintendent, Dr. Jenkins, outlined a third alternative whereby some of the Washington students could be assigned to the McKinley School while the Linda Vistans would be sent to the closer Washington School. This could be worked to improve the racial balance at both locations and minimize the distances for the children. While no decision was made at the meeting, it was clear that three of the five Board members wished to assign

the Linda Vistans to the predominantly white McKinley School and leave the existing attendance zones unchanged.

Two weeks later, at the mid-December meeting of the Board, Mrs. LaMotte read a prepared statement to her fellow Board members. In it she said (1) that while she had a personal moral commitment, and the Board a legal commitment, for integration, there was no problem since both McKinley and Washington were integrated, there being Negro and white pupils in each school; (2) that assignments to schools should not be decided on the basis of race; and (3) that the additional distance of one mile to McKinley was not relevant, since the children would have to be transported by bus in either event. With ethnic composition and transportation irrelevant considerations, and since she opposed any major redistricting unless absolutely necessary, Mrs. LaMotte favored assigning Linda Vista children to McKinley.

Mr. Shatford, another member of the Board, responded that the Board would have to consider racial makeup of school attendance districts if it was to further its announced policy of doing nothing to promote segregation, that the presence of Negroes at both schools did not mean there was no racial imbalance, and that the Board had an obligation to correct racial imbalance between McKinley and Washington.

At the next meeting, on January 4, 1961, in response to a proposal by Mr. Taylor of the NAACP Education Committee, Mrs. LaMotte announced: "This is an area where no one has any business debating the percentage of colored and white children, as it makes no difference; and to make any move to increase integration or segregation is equally wrong."

At this point Mr. Shatford made it plain that he did not question the sincerity of other members of the Board who advocated a color-blind policy, but he questioned whether the arguments would have been the same if McKinley had been a Negro school and Washington white. Still no decision was reached, but the Superintendent, Dr. Jenkins, read a letter from the County of Los Angeles Commission on Human Relations, expressing a concern about the divisiveness of the racial issue and recommending that the Board defer action until community groups could be brought together to discuss the problem. The Board unanimously endorsed the proposal and authorized the Superintendent to appoint a "conference-type committee" to study the rezoning problem and make recommendations. The Superintendent thereupon spent three weeks organizing a "balanced," citizens committee of sixteen community leaders, including several Negroes. It met a number of times with various

groups and professionals. Although the Committee then unanimously issued a statement urging a policy of “. . . the widest possible distribution of the various racial, ethnic and cultural groups in each school, on as wide a basis as possible, [as] a desirable educational objective,” it nevertheless recommended that the Linda Vista students and a portion of Washington students be sent to the white McKinley School. A Negro group committeeman presented the report in order to “show the unanimity of spirit.” When the report was presented to the Board, the three members who opposed the integration plans agreed to it, stating that though it was a “compromise,” it would be acceptable. Mr. Shatford and one other Board member opposed the report because it failed to confront the problem of racial balancing, and offered at best only a vague policy statement in place of an effective solution to an urgent and important problem. On March 21, 1961, the Committee’s plan was put to a vote and approved 3 to 2 by the Board. No Board member had changed his mind since the initial meeting in November of 1960.

THE HIGH SCHOOL CONTROVERSY

The NAACP and other Negro groups were hardly well-pleased by the resolution of the Linda Vista problem, and continued to press for the school district to take widespread affirmative action, particularly in the high schools. On June 5, 1962, the School Board authorized the Superintendent to reactivate the Citizens’ Advisory Committee on Redistricting—the Committee which had proposed the policy in the Linda Vista controversy. After five months of meetings the Committee presented a report and proposed a plan for redistricting whereby no high school would become more than 30% Negro or 40% non-Caucasian. The report pointed out that whereas, if lines were not redrawn Muir High School would have 38.1% ethnic minority students and Pasadena High School would have only 7.4%, the proposed rezoning would redistribute the racial balance to 29% and 11% respectively. These recommendations, which presumed the continual existence of only two high schools, deliberately sought both to transfer Caucasian neighborhoods into the Muir attendance zone and to transfer some Negro neighborhoods into the Pasadena zone. Also, the Committee relied upon the June 1962 Declaration of Policy of the California State Board of Education which directed local boards to give “serious and thoughtful consideration” to the policy of “elimination of existing segregation and curbing any tendency toward its growth.”

The Board received the report and recommendations on April 2, and scheduled its next meeting on the evening of April 16 so that interested citizens could attend. In the interim, considerable opposition began to be organized in the white neighborhoods which sought to be rezoned into the Muir attendance district. On April 16, four of the five Board members began the meeting by proposing as "individuals" that plans for a third high school be initiated. This would have the effect of postponing the policy of racial balancing until the plans for the third high school were resolved. Mr. Shatford, however, opposed this postponement and urged immediate adoption and implementation of the Committee's proposals. Some in the audience argued that the proposed "instant" third high school was a means of subverting the Committee's recommendations. However, Dr. Jenkins, the Superintendent, came out in favor of the third high school, and emphasized that it would allow for an even better ethnic balance than provided for in the Committee's plan. He thereupon introduced a plan suggested by a U.S.C. professor, which would distribute the ethnic minorities equally among the three schools. Caucasians would be zoned on a geographic basis and there would be open enrollment for all Negroes, to the extent that they were equally distributed and space was sufficient. It was projected that after three years each of the schools would have from 13 to 18% Negro enrollment. The plan met with the general approval of four of the five Board members, with only Mr. Shatford objecting on grounds that it would mean extensive transportation for only Negro students. Instead, he proposed a plan to deploy children from neighborhoods having more than 50% Negro concentration.

Both of these plans were submitted to the County Counsel in June 1963, and his opinion was that they were both illegal "ratio or quota plans based on color," which violated equal protection under the fourteenth amendment. With this the Superintendent amended his plan to provide for open districts for all persons living in specified areas (which just happened to be Negro neighborhoods). His estimated attendance figures for this plan showed Negro percentages ranging from 13% to 18% in each of the three high schools. The Superintendent worked quietly for a month to bring the Board members and civil rights groups together to secure unanimous adoption without undue publicity or organized opposition. He felt that the only way to secure passage of the school bond issue was to minimize opposition by creating a united front. The Superintendent's modified plan was adopted by the Board on June 11 but detailed implementation was postponed until after the bond election to keep down the

level of public conflict. The bond issue was passed, without difficulty, in the fall of 1963. On January 7, 1964, the Superintendent made a presentation of detailed plans for implementing his proposal.

However, by March 25, 1964, the date selected for making the assignment of pupils to high schools, so many students had moved from the Muir and third high school areas to the Pasadena area that only 48 open places remained at Pasadena instead of the anticipated 195. Consequently, the Negro enrollment in the three high schools would range from 3% to 30% instead of the projected 13% to 18%. When Dr. Jenkins reported these figures to the Board on April 7, the NAACP bitterly accused him of breaking faith. By April 17, however, Dr. Jenkins and the NAACP agreed on a plan providing a projected range of 10% to 23% Negro in the three high schools. As part of this agreement the NAACP volunteered to recruit as many students as possible to fill 125 places at Pasadena High School. The NAACP was successful as 97 Negro pupils were recruited. In spite of this, the actual fall enrollment figures indicated a range of 5% to 30% Negro in the three schools.

THE JACKSON LITIGATION

In August 1961, Jay Jackson—a Negro student at Washington Junior High—petitioned to the Board of Education for permission to attend Eliot Junior High School on the sole ground that Washington was segregated and therefore inferior. When the request was denied, an attorney-member of the NAACP, who was working full-time in the Los Angeles office of the California Corporations Commission, filed a petition for writ of mandate on behalf of Jay Jackson against the Board to compel the granting of the motion for transfer. The complaint alleged that the Washington Junior High School attendance zone had been established “for the sole purpose of relegating to a single junior high school zone a substantial proportion of all Negro pupils of junior high school age.” He argued that the handling of the Linda Vista situation clearly demonstrated such a policy.

The Board Counsel demurred, and the superior court sustained the demurrer, commenting that it was “common knowledge” that the allegations of gerrymander were false. The case was appealed by Jackson to the district court of appeals. The opinion of the district court of appeals handed down in December 1962, followed the original arguments of the County Counsel for the School Board. It too held that there was no segregation in the schools.

This decision was appealed to the California state supreme court and petition for hearing was granted. Here Jackson's briefs were joined by amicus curiae briefs from Herbert Bernhand of the American Jewish Congress and Deputy Attorney General Robert Burke. County Counsel, on behalf of the Pasadena Board of Education, reiterated his same arguments, that "school boards should determine attendance at the public schools *not on the basis* of race, creed or color, but rather, upon considerations which tend to promote and maximize the educational opportunities. . . . To ask for discrimination on the basis of race."

The supreme court, reversing the judgments of the lower court, adopted a notion of "affirmative integration" which had been advanced in the two amicus briefs. Speaking for a unanimous court, Chief Justice Gibson stated:

[E]ven in the absence of gerrymandering or other affirmative discriminatory conduct by a school board, a student under some circumstances would be entitled to relief where, by reason of residential segregation, substantial racial imbalance exists in his school . . . Residential segregation is in itself an evil . . .

Where such segregation exists it is not enough for a school board to refrain from affirmative discriminatory conduct. The harmful influence on the children will be reflected and intensified in the classroom if school attendance is determined on a geographic basis without corrective measures. The right to an equal opportunity for education and the harmful consequences of segregation require that school boards take steps, insofar as reasonably feasible, to alleviate racial imbalance in schools regardless of its cause . . . ²

This opinion of the California supreme court was handed down on June 27, 1963, over two years after the decision to place the Linda Vista students in white McKinley School and a year after Jay Jackson had graduated from Washington Junior High.

It is interesting to note the impact—or more appropriately, lack of impact—of the *Jackson* decision. While the *Jackson* decision did not spell out very clearly precisely what obligations school boards had, it did at least indicate that boards need not accept a "color-blind" policy in zoning and, in fact, should "take steps, insofar as reasonably feasible" (although no criteria for reasonable feasibility were supplied) to alleviate de facto school segregation. Despite this decision the Pasadena Board of Education and County Counsel continued to "ignore" racial considerations

2. 59 Cal. 2d 978-82 (1963).

defending their position, in part, by claiming they had no constitutional or legal alternative. This can be seen in a controversy arising one year after the California supreme court handed down the *Jackson* opinion. Upon receiving a letter from a Caucasian boy requesting to be transferred from Pasadena High School to Muir High School—because the boy believed the racial balance between the two schools would be better equalized if he attended Muir and a Negro were selected in his place to attend Pasadena High School—Dr. Jenkins sought an advisory opinion from the County Counsel, and was told: “. . . a policy allowing attendance from the selected Open District to another school, only if it contributes to better ethnic distribution, would be violative of the equal protection clause of the 14th Amendment of the U. S. Constitution.”

Following this opinion at the Board meeting, Mr. Shatford read a hastily drafted reply, arguing that this was what the *Jackson* decision had decided against.

It is my opinion that at least a majority of lawyers would now be satisfied, after the *Jackson* case, that a school board could most certainly employ ethnic considerations in drawing district lines, and it is not necessary for a school board to engage in a verbal minuet mincing back and forth and sideways, talking of capacity of school facilities, geographical considerations, etc. while slowly and surely progressing toward its real goal: compliance with the declared policy which requires alleviation of racial imbalance.

Nevertheless, the Board seemed to ignore Mr. Shatford's arguments. The Superintendent said he would comply with current Board policy and deny the requested transfer unless the Board directed otherwise. There was no motion to do so.

ELEMENTARY REDISTRICTING

After the bond election, the three-member majority of the Board was opposed to reactivating the Citizens Advisory Committee on Redistricting, on the grounds that it was the Board's responsibility to redistrict and that there was no need to consider a comprehensive policy for elementary and junior high school redistricting. The unspoken fear was that the Committee would recommend, as it had in the high school report, that the Board commit itself to a similar policy of putting a ceiling on ethnic concentration in the elementary schools. Predictably, the Board voted (with the now familiar 3–2 division) not to have the Committee reactivated. Community integrationist groups decided to wait and see what the Board and Superintendent would propose.

In January 1964, Dr. Jenkins proposed only slight modifications of existing boundaries, which barely reduced the percentages of Negroes in the heavily Negro elementary schools (*e.g.*, from 75% to 69%). The three members of the Board majority, again restating their good intentions and opposition to race as a criterion for pupil assignment, agreed to the Superintendent's plan. On the other hand, the other two members of the Board, members of the Citizens Committee, and the officers of the NAACP criticized the plan. The Board's continued commitment to the neighborhood concept, it was argued, would entail increased segregation as neighborhoods developed. All agreed that the Citizens Committee should be reactivated, but Mr. Shatford's motion to this effect lost 3 to 2.

Dr. Jenkins proposed that eight town-hall meetings be held with the Board present to discuss in public proposals for redistricting. During this period, when many ideas and views were publicly aired, Dr. Jenkins was quietly drawing up a comprehensive plan for the elementary schools. It called for a voluntary transfer of students in certain (heavily Negro) areas, but—unlike the partially involuntary high school plan—it did not provide for transportation. Other plans to consolidate and pair schools were proposed by integrationists, but little came of them.

Another telling development of the community response to the issues was seen toward the end of the time period discussed here. In the spring of 1965 the terms of three school board members expired; all three filed for reelection. Two of these incumbents, including Mrs. LaMotte, formed a slate with a third person, who was running against Mr. Shatford. All three members of this slate, which campaigned on a platform of "preserving neighborhood schools" and promoting "quality education," were elected, thus defeating Mr. Shatford.

AN OVERVIEW

Committed to maintaining ethnic balance among its three high schools, the Pasadena Unified School District has consciously chosen to live, for the foreseeable future, with seven or more segregated elementary schools and one segregated junior high school. Why the difference in community attitude toward the two problems? An obvious reason is that the neighborhood school concept does not begot the issue: high school attendance areas and the high schools themselves are traditionally large and the pupils relatively mobile. A less obvious, but equally important, reason is that the Muir High School had never been written off by the community, as had been the Washington Junior High School, as a "Negro

school." In other words, large numbers of Caucasians in the western portions of Pasadena had an interest in stemming the rising percentage tide of Negro enrollment at Muir, to maintain an excellent and integrated high school on the west side of town. Would the community have done as much if Muir's minority group enrollment had, for example, been in excess of 90% for the last five years?

Most of Pasadena's whites have simply concluded that solution of the integration problem in the elementary and junior high schools is not so serious a community problem that it merits the price that feasible solutions might require them and their children to pay. The only current source for the additional funds which might be necessary for any ambitious plan to correct racial imbalance at the elementary and junior high school levels is the District's taxpayers, who are already about to be asked to approve bond issues for new school construction. Pasadena has a problem which is nonexistent in other San Gabriel Valley communities without substantial ethnic minority populations, largely because Pasadena is a city to which Negroes can move. There is some justice to a claim that, to the extent to which the problem is financial, it is unfair to place the cost of removing school segregation which flows from residential segregation on the community into which Negroes may move. In other words, it is a considerable strain on the altruism of Pasadena's taxpayers to ask them to provide funds, not necessary in adjoining districts, for the solution of a state-wide and national problem.