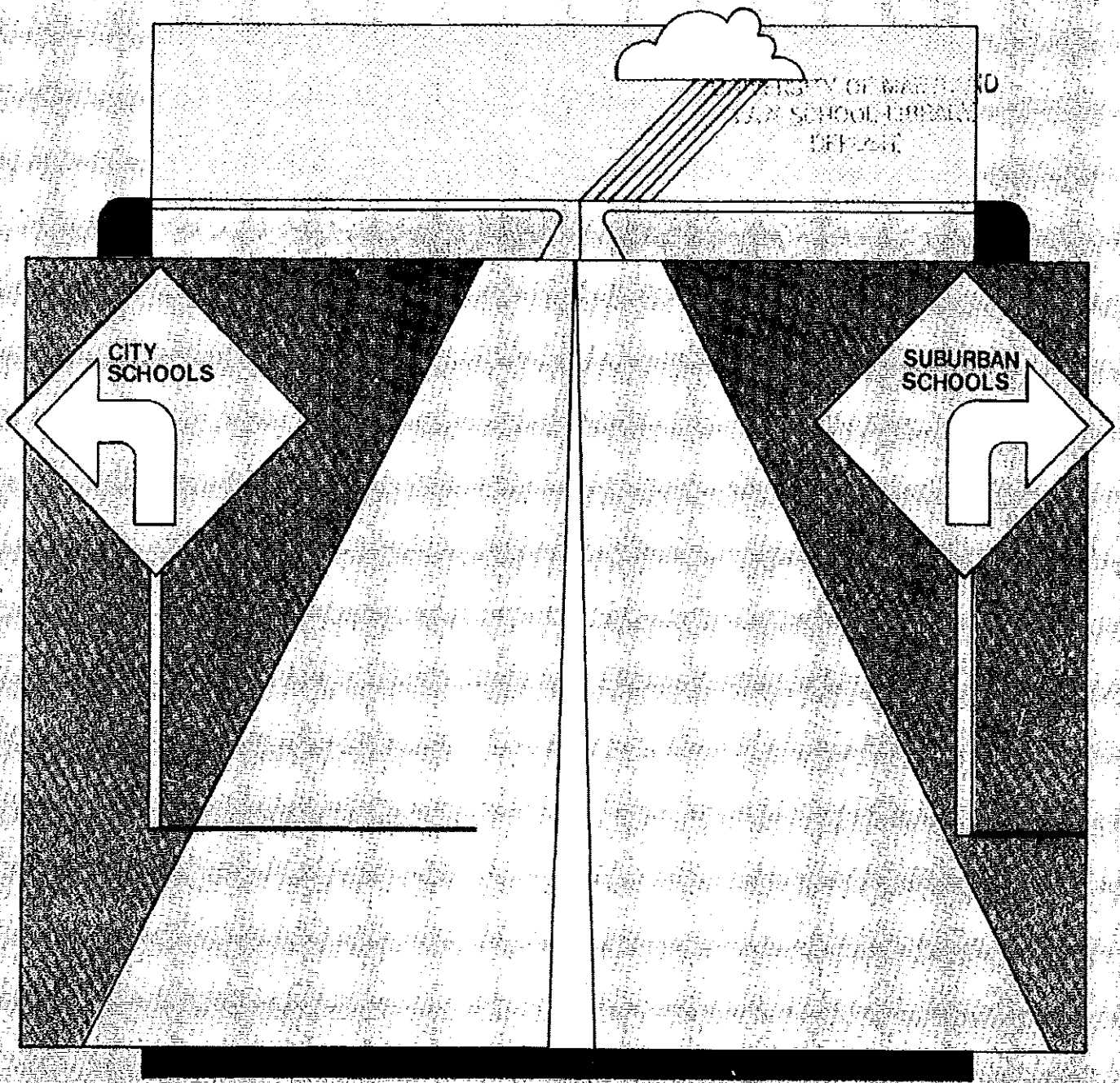
School Desegregation in the St. Louis and Kansas City Areas

METROPOLITAN INTERDISTRICT OPTIONS

January 1981



...the Missouri Advisory Committee to the United States Commission on Civil Rights prepared for the information and ...on of the Commission. This report will be considered by the Commission and the Commission will make public its ... the meantime, the findings and recommendations of this report should not be attributed to the Commission but only ...souri Advisory Committee.

THE UNITED STATES COMMISSION ON CIVIL RIGHTS

The United States Commission on Civil Rights, created by the Civil Rights Act of 1957, is an independent, bipartisan agency of the executive branch of the Federal Government. By the terms of the act, as amended, the Commission is charged with the following duties pertaining to discrimination or denials of the equal protection of the laws based on race, color, religion, sex, age, handicap, or national origin, or in the administration of justice: investigation of individual discriminatory denials of the right to vote; study of legal developments with respect to discrimination or denials of the equal protection of the law; appraisal of the laws and policies of the United States with respect to discrimination or denials of equal protection of the law; maintenance of a national clearinghouse for information respecting discrimination or denials of equal protection of the law; and investigation of patterns or practices of fraud or discrimination in the conduct of Federal elections. The Commission is also required to submit reports to the President and the Congress at such times as the Commission, the Congress, or the President shall deem desirable.

THE STATE ADVISORY COMMITTEES

An Advisory Committee to the United States Commission on Civil Rights has been established in each of the 50 States and the District of Columbia pursuant to section 105(c) of the Civil Rights Act of 1957 as amended. The Advisory Committees are made up of responsible persons who serve without compensation. Their functions under their mandate from the Commission are to: advise the Commission of all relevant information concerning their respective States on matters within the jurisdiction of the Commission; advise the Commission on matters of mutual concern in the preparation of reports of the Commission to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Advisory Committee; initiate and forward advice and recommendations to the Commission upon matters in which the Commission shall request the assistance of the State Advisory Committee; and attend, as observers, any open hearing or conference which the Commission may hold within the State.

School Desegregation in the St. Louis and Kansas City Areas

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--A report prepared by the Missouri Advisory Committee to the United States Commission on Civil Rights

ATTRIBUTION:

The findings and recommendations contained in this report are those of the Missouri Advisory Committee to the United States Commission on Civil Rights and, as such, are not attributable to the Commission. This report has been prepared by the State Advisory Committee for submission to the Commission and will be considered by the Commission in formulating its recommendations to the President and the Congress.

RIGHT OF RESPONSE:

Prior to the publication of a report, the State Advisory Committee affords to all individuals or organizations that may be defamed, degraded, or incriminated by any material contained in the report an opportunity to respond in writing to such material. All responses have been incorporated, appended, or otherwise reflected in the publication.

LETTER OF TRANSMITTAL

Missouri Advisory Committee to the
U.S. Commission on Civil Rights
January 1981

MEMBERS OF THE COMMISSION
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Louis Nuñez, *Staff Director*

Dear Commissioners:

The Missouri Advisory Committee submits this report of its review of possible involvement of metropolitan area school districts in the continued desegregation of the Kansas City and St. Louis City School Districts as part of its responsibility to advise the Commission about civil rights problems within the State.

The Advisory Committee's interest in this problem is an outgrowth of its 1977 report on school desegregation in Kansas City and the Commission's studies on metropolitan school desegregation. To determine possible options, the Advisory Committee, through the Commission's Central States Regional Office, contracted for a study prepared by Prof. David L. Colton, of Washington University-St. Louis; Dean Eugene E. Eubanks and Prof. Daniel U. Levine of University of Missouri-Kansas City. This report forms the basis for this review.

The Advisory Committee noted that both St. Louis and Kansas City central city school districts have undertaken measures designed to reduce racial isolation. The Committee urges that both districts pursue within-district remedies to the maximum extent feasible and begin to develop further plans to achieve even more desegregation, whether or not a metropolitan remedy is possible.

The Advisory Committee noted that both St. Louis and Kansas City school districts have alleged that State action and/or action by surrounding districts and/or Federal action have contributed to segregation within the central city districts. The Advisory Committee urges the Kansas City School District to pursue its cross-claim. The Committee urges the St. Louis school district to seek a metropolitan remedy either through cooperation of suburban districts or by further litigation. The Advisory Committee also urges the U.S. Commission on Civil Rights to encourage U.S. Department of Justice intervention in support of the plaintiffs in the Kansas City metropolitan school desegregation case.

The Advisory Committee noted that neither the State Board of Elementary and

Secondary Education, the Commissioner of Elementary and Secondary Education nor the General Assembly have supported measures comparable to that adopted by the State of Wisconsin which would make interdistrict sharing of students financially attractive. The Advisory Committee urges the State Board of Education to review school laws and regulations and eliminate any which stand as legal impediments to interdistrict desegregation efforts. The State Board and Commissioners should support an interdistrict fiscal incentives bill in the next session of the legislature. The General Assembly is urged to establish a Commission to collect information and consider recommendations for State action supporting interdistrict and intradistrict approaches to the reduction of racial isolation. This Commission's activities should focus not only on education but also on housing and other actions by governments which affect the incidence of school racial isolation. The General Assembly is also urged to establish a joint committee to study and consider an interdistrict transfer plan.

We urge you to concur with our recommendations and to assist this Advisory Committee in its follow-up activities.

Respectfully,

JOANNE M. COLLINS, Chairperson
Missouri Advisory Committee

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ACKNOWLEDGMENTS

This report was produced with the assistance of the Commission's Central States Regional Office. Project director and writer was Malcolm J. Barnett. Assistance was provided by Etta Lou Wilkinson. Legal review was conducted by Elaine M. Esparza, Esq. Support services were provided by Jo Ann Daniels and Gloria M. O'Leary. The work of CSRO is guided by the Regional Director, Melvin L. Jenkins. Field operations are under the overall supervision of Thomas L. Neumann. The staff of the Publications Support Center was responsible for final preparation of this document for publication.

CONTENTS

2. The Setting

In this chapter the Advisory Committee reviews the settings in which desegregation can occur: St. Louis City and St. Louis County and the four county area surrounding Kansas City—Jackson, Clay, and Platte Counties in Missouri and Johnson County in Kansas.

St. Louis

The Political Geography

In 1970, the city and county together contained 1,574,000 people of whom 622,734 lived in the city. Of the 1970 city population 40.7 percent was black, compared to 4.8 percent of the county's; one percent of the city's population and 0.9 percent of the county's population were Hispanic. The proportion of all other minorities was less than one-half of one percent. But it should be noted that some areas of the county had substantial black populations, often originating in settlements that date from the 19th century.[1]

The city has been losing population steadily, having declined from 622,734 in 1970 to 517,671 in 1977 (a loss of 17 percent). The county's population increased from 951,671 in 1970 to 977,954 in 1977 (an increase of 3 percent). Similarly, there has been a shift of jobs and manufacturing facilities from the city to the county.[2]

St. Louis City is both a city and a county, having seceded from the county by referendum in 1876. The only breaches in the division between the city and the surrounding county since then have been the metropolitan sewer district, a junior college district and also a taxing authority supporting the zoo, art museum and science museum. Although there have been discussions about reintegrating the city into the county, nothing has come of this.[3]

The city of St. Louis is a 62 square mile enclave on the western bank of the Mississippi River, surrounded on the south, west, and north by St. Louis County. The city can be divided into roughly three areas—the downtown area of hotels, retail stores, office buildings and industry which extends westward through the city and includes large areas of urban renewal at the western end, the residential parts of this area are integrated; the predominantly black residential area of north St. Louis which spans the city from east to west at its widest point with the exception of the northern tip, which is still predominantly white; and south St. Louis, a residential area of apartment houses and private homes, which is predominantly white although there are pockets of black settlement. There are also urban renewal areas in the river wards of both north and south St. Louis.[4]

The county of St. Louis covers 510 square miles and includes a county government, numerous special

[1] Missouri Advisory Committee to the U.S. Commission on Civil Rights, *General Revenue Sharing in St. Louis City and County* (February 1976), pp. 10-12.

[2] U.S., Bureau of the Census, *1977 Population Estimates for Counties, Incorporated Places and Minor Civil Divisions in Missouri* (1978), (Series P-25, No. 838); and, Missouri Advisory Committee, *General Revenue Sharing in St. Louis City and County*, pp. 10-12.

[3] *St. Louis Post-Dispatch*, May 5, 1975.

[4] Missouri Advisory Committee to the U.S. Commission on Civil Rights, *General Revenue Sharing in St. Louis City and County*, pp. 10-11; and, Robert Wentz, Superintendent of Schools, St. Louis City Public Schools, letter to the Chairperson, Missouri Advisory Committee, Apr. 9, 1980.

districts (e.g., school districts) and 94 incorporated places. Combined, the incorporated areas occupied one-third of the county's land area in 1970 and contained two-thirds of its population. The county contains some wealthy neighborhoods and some areas where population densities resemble those in the city of St. Louis, but for the most part the county is typical of the "bedroom suburbs" surrounding many large central cities. Industry is quite widely dispersed in the county, while business and financial services tend to be clustered around the county courthouse in Clayton. Shopping centers abound.[5]

The Schools

Nearly one-quarter of Missouri's one million public school students are enrolled in the 25 school districts serving St. Louis City and County.[6]

The city school district boundary coincides with that of the city of St. Louis. St. Louis County contains 23 geographically distinct districts offering K–12 general education. Some districts have boundaries which parallel specific municipalities, such as Wellston, Brentwood and University City. Others include several municipalities. Others, such as Parkway, cover huge unincorporated areas. A map showing the boundaries of the city and county school districts appears in Figure 2–1. In addition there is a "special school district" providing vocational training and education for the handicapped to all county residents, funded by a separate tax levy.

Until 1954 black students living in school districts outside St. Louis City, Webster Groves, Kirkwood, and Kinloch were bused out of district for their high school education. For example, in the 1949–50 school year, 19 county districts sent 147 students to St. Louis City's black high schools. In 1953–54, 207 non-resident students attended Webster Groves' black high school, Douglass.[7]

In 1978, there were 84,000 black students enrolled in public schools in the city and county. Two-thirds of these were in racially isolated schools—46,800 attended schools that were 95–100 percent black, and another 10,600 attended schools that were 75–95 percent black.[8] Figure 2–2 shows the concentration of minority students in the area.

Fifty-four percent of the city's elementary schools were 95–100 percent black in 1978–79, while 9 percent were 1–5 percent black. Only 18 percent of the district's elementary schools were 26–75 percent black.[9] Between 1970 and 1978 black student enrollment in the city school district declined by 18,381. This was 25 percent of the 1970 enrollment. In contrast, black enrollment in St. Louis County schools increased by 13,248 pupils during the same period, an 86 percent increase over 1970 enrollment. These changes appear to reflect a shift in black population from the city to the county. Stated differently, black students in the city in 1970 constituted 86 percent of the total of black students in both city and county; by 1978 the proportion had dropped to 66 percent.[10] It has been estimated that by the end of the 1980's there will be more black students in county than city schools.[11] But within the county the black students are not evenly distributed. Districts in the northern portion of the county enrolled 82 percent of the increase in black student population between 1970 and 1978. Districts in the central-western portion enrolled 18 percent of the added enrollment, while the south county area enrolled 0.2 percent of the added enrollment.

In short, any possible metropolitan remedy for the St. Louis area would involve not merely an exchange of students with city students going to county schools and county students going to city schools. It would involve a complex network of exchanges throughout the metropolitan area, including some within county and within city exchanges.

Kansas City

The Political Geography

The city of Kansas City, Missouri, is a 316.3 square mile incorporated jurisdiction primarily within Jackson County, but also including portions of Clay and Platte Counties. On one side it borders the Kansas-Missouri State boundary. Both Johnson County and parts of Wyandotte County in Kansas grew up as dormitory suburbs for Kansas City, Missouri, and its twin, Kansas City, Kansas. Kansas City, Missouri, includes a relatively small downtown

[5] Missouri Advisory Committee to the U.S. Commission on Civil Rights, *General Revenue Sharing in St. Louis City and County* (February 1976), pp. 10–11.

[6] David L. Colton, Daniel U. Levine, and Eugene E. Eubanks, *Financial Aspects of Interdistrict Approaches to School Desegregation in Metropolitan St. Louis and Metropolitan Kansas City* (St. Louis: Center for the Study of Law in Education; Washington University, St. Louis; July 1979) (hereafter cited as *Colton and others*), p. 19.

[7] *Colton and others*, p. 22.

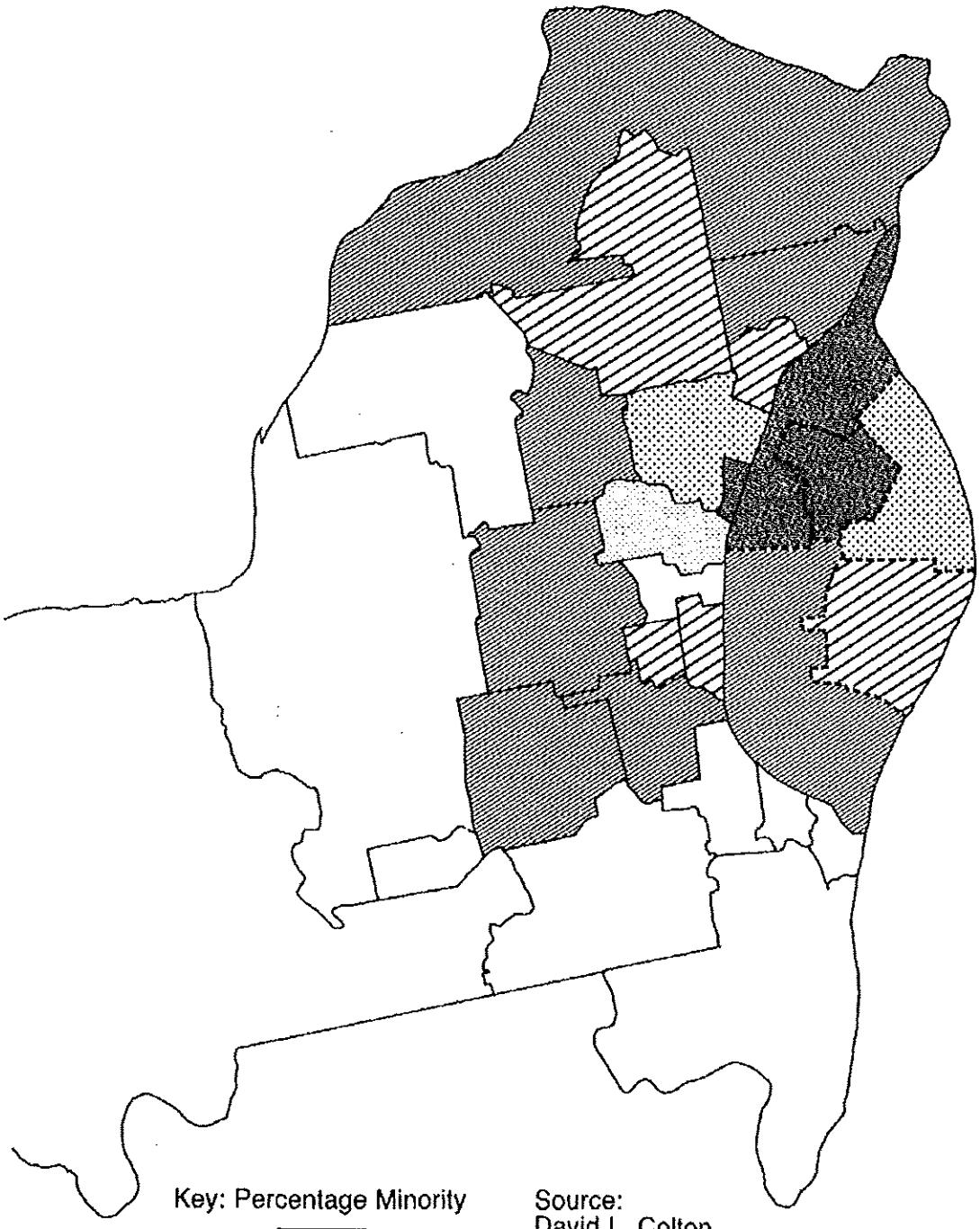
[8] Ibid., p. 30

[9] Robert Wentz, letter to Chairperson, Missouri Advisory Committee, Apr. 9, 1980.

[10] *Colton and others*, p. 36, table 6.

[11] Ibid., p. 35.

FIGURE 2–2
Proportion of Minority Enrollment in St. Louis Area Schools 1978



Source:
David L. Colton, Daniel U. Levine and Eugene E. Eubanks, *Financial Aspects of Interdistrict Approaches to School Desegregation in Metropolitan St. Louis and Metropolitan Kansas City* (St. Louis, 1979)

Table 2–1

Black Enrollment by District, 1970 and 1978

District	1970 Black Enrollment	1978 Black Enrollment	Change
North County			
Hazelwood	250	2448	+2198
Ferguson	2537	4930	+2393
Pattonville	79	242	+ 163
Ritenour	730	837	+ 107
Normandy	2803	6200	+3397
Riverview Gardens	48	1631	+1583
Jennings	40	1015	+ 975
Wellston	2017	1572	− 445
Total	8504	18875	+10371
Central West County			
Rockwood	114	75	− 39
Parkway	36	354	+ 318
Valley Park	NA[b]	11	+ 11[b]
Ladue	45	363	+ 318
Kirkwood	1081	757	− 324
Webster Groves	1040	911	− 129
University City	3197	4841	+1644
Clayton	NA[b]	20	− 20[b]
Brentwood	119	447	+ 328
Maplewood	483	538	+ 55
Total	6115	8317	+2202
South County			
Affton	NA[b]	2	+ 2[b]
Bayless	NA[b]	6	+ 6[b]
Hancock Place	NA[b]	2	+ 2[b]
Lindbergh	30	38	+ 8
Mehlville	2	21	+ 19
Total	32[b]	69	+ 37[b]
St. Louis City	72,965	54,584	−18,381

[a] For 1970, Berkeley and Kinloch are combined with Ferguson.

[b]NA means data not available. In order to calculate changes, it is assumed that districts for which data was not available enrolled no black students in 1970.

Derived from: County data from Center for Urban Programs, St. Louis University. City data from U.S. District Court, Eastern District of Missouri, *Liddell et al. vs. Board of Education of the City of St. Louis et al.*, Decision issued April 12, 1979, p. 27.

Source: David L. Colton, Daniel U. Levine and Eugene E. Eubanks, *Financial Aspects of Interdistrict Approaches to School Desegregation in Metropolitan St. Louis and Metropolitan Kansas City* (St. Louis, 1979)

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business area, a central corridor in which most of the black population lives, a corridor of white population in the southwest, a working class white enclave in the northeast, and a belt of white population to the south and east. The portions of the city north of the Missouri River, in Clay and Platte Counties, are predominantly white as are the Jackson County suburbs surrounding the city to the east and south. Johnson County, Kansas, is overwhelmingly white and middle class. Kansas City, Kansas, is a typical central city and has a relatively large minority population (20 percent black in 1970).[12] Although originally concentrated in the central cities, there has been some exodus of industry to the suburbs in recent years, and most new industries have chosen suburban locations.[13] Kansas City, Missouri, has retained its larger manufacturing plants and has attracted some white collar industries. With the impending move in 1985 of the Internal Revenue Service from south Kansas City to the city center, this trend towards central cities as centers of white collar work is expected to accelerate. While the area's most famous shopping center, the Plaza, is located in south Kansas City, and there is some shopping available downtown, most shopping centers are either on the suburban fringes of the city or in the suburbs.

In 1970 the population of Jackson, Clay, and Platte Counties (Missouri) was 809,961 while the population of Kansas City, Missouri was 507,087 (63 percent of the three county total). By 1977, Kansas City's population had declined to 458,573 (a decline of 9.6 percent) and the city's share of population in the three county area in which it has land dropped to 57 percent.[14]

Unlike St. Louis, the patterns of development have been marked by considerable formal and informal cooperation in the provision of services to area residents.[15] Among the common services shared by city and suburbs are the metropolitan junior colleges, fire protection services, provision of water, ambulance services and services to the aged.[16]

[12] U.S., Bureau of the Census. *General Population Characteristics: Kansas* (PC(1)-B 18), table 25.
[13] *Kansas City Star*, Feb. 3, 1980.
[14] U.S., Bureau of the Census. *1977 Population Estimates for counties, incorporated places and minor civil divisions in Missouri.* (Series P. 25, no. 838)
[15] Kansas and Missouri Advisory Committees to the U.S. Commission on Civil Rights, *Crisis and Opportunity: Education in Greater Kansas City* (January 1977), pp. 13-23.

The Schools

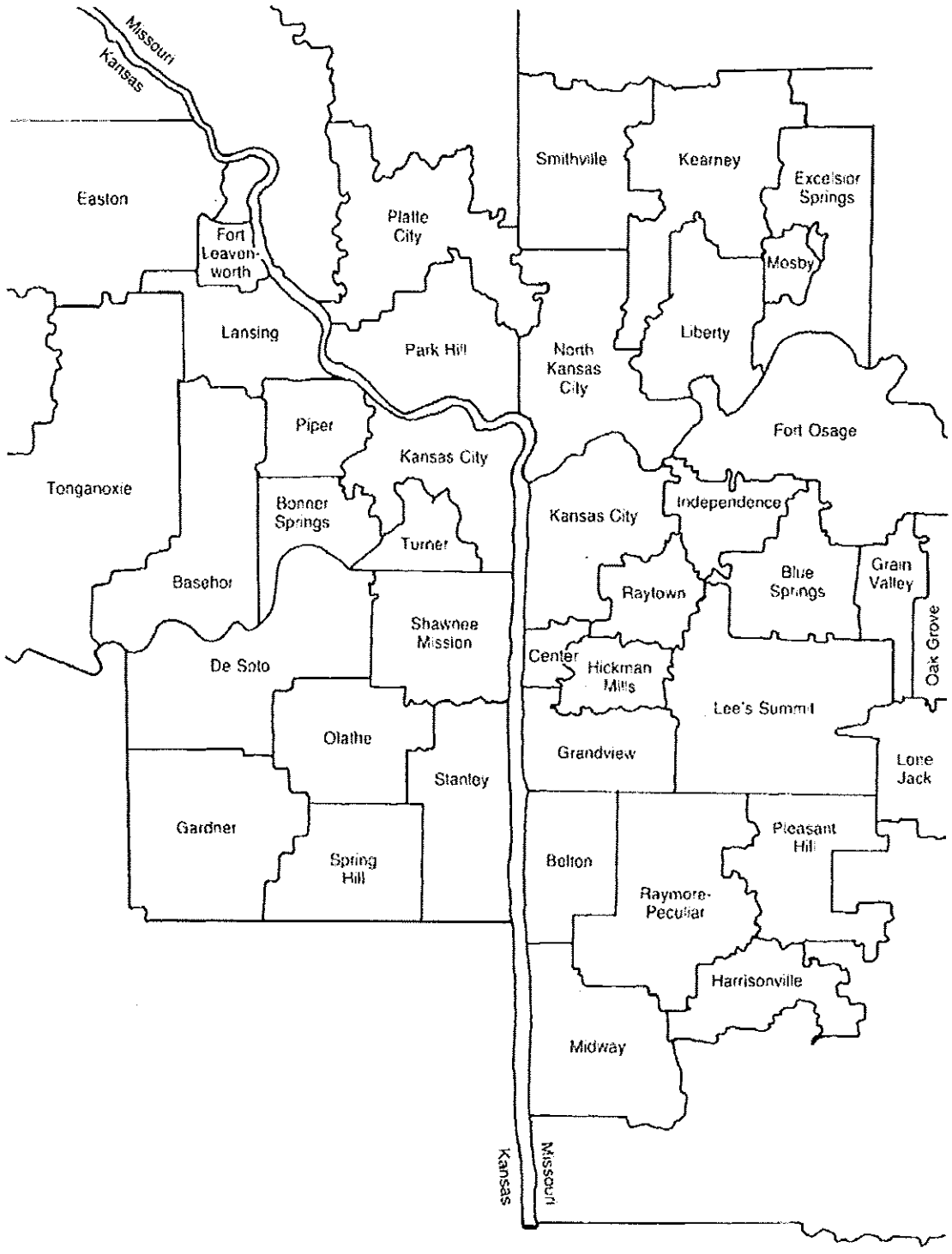
The 16 school districts in the Missouri portion of the Kansas City SMSA enrolled 158,688 pupils in 1977. Unlike St. Louis, the boundaries of most school districts in this area do not match other political boundaries. Thirteen school districts are either in whole or in part within the corporate boundaries of Kansas City. Indeed, there are parts of four different school districts in one Kansas City voting precinct (the city's smallest voting subdivision).[17] Moreover, unlike St. Louis, the Kansas City, Missouri, school district is also bordered by two school districts in Kansas—Kansas City, Kansas, and Shawnee Mission. Figure 2-3 shows the boundaries of the school districts within easy commuting range of the city.

As in St. Louis prior to 1954 black students were transported from Missouri suburban districts to Kansas City's black high school.[18] In 1977 Kansas City school district contained 66.6 percent of all black pupils enrolled in districts within the SMSA (including both the Missouri and Kansas portions) although its total enrollment was only 18.8 percent of the SMSA total. Hickman Mills district enrolled 1.8 percent of the SMSA black student enrollment. All other suburban districts enrolled less than 1 percent each of the SMSA black enrollment. The 19 suburban Missouri districts together enrolled 5.2 percent of the black students in the SMSA while their share of total enrollment was 46.3 percent. The enrollment figures are shown in Table 2-2. Within the suburban districts there was widespread variation in the proportion of minority students in individual schools.[19] Table 2-3 shows that, for example, in Hickman Mills district the highest proportion of minority students in a school was 12.6 times greater than the lowest at the elementary level and 22 times greater at the junior high school level.[20]

Enrollments have declined in both the Kansas City School District and the Missouri suburbs. For the period 1972-77 total enrollment declined by 30 percent in the city and by 14 percent in the Missouri suburbs. But while black student enrollment in the Kansas City, Missouri, School District declined during that period from 35,578 to 29,233 (18 per-

[16] Ibid., pp. 20-22.
[17] Stanley Rostov, Principal Director, Kansas City Election Board, telephone interview, Apr. 17, 1980.
[18] *School District of Kansas City v. State of Missouri*, No. 77-0420-CV-W-3 (May 26, 1977).
[19] *Colton and others*, p. 88.
[20] Ibid., p. 89.

FIGURE 2–3
Major School Districts: Kansas City Metropolitan Area



Source: Missouri and Kansas Advisory Committees, *Crisis and Opportunity Education in Greater Kansas City* (January 1977)

Table 2–2
Total and Minority enrollment in Selected Missouri Districts: Kansas City SMSA

District	Total Enrollment	Black Enrollment	Per Cent Black	Per Cent of All SMSA	Per Cent of All SMSA Black Pupils
Kansas City, Mo.	45,726	29,233	63.9	18.8	66.6
Center	4,344	154	3.5	1.8	0.4
Hickman Mills	11,152	770	6.9	4.6	1.8
Raytown	12,410	375	3.0	5.1	0.9
Grandview	6,277	245	3.9	2.6	0.6
Independence	12,536	133	1.1	5.1	0.3
Lee's Summit	6,313	18	0.3	2.6	—
Blue Springs*	7,554	85	1.1	3.1	0.2
Fort Osage	5,426	8	0.1	2.2	—
Grain Valley	724	0	—	0.3	0
Oak Grove	1,400	1	0.1	0.6	—
Lone Jack	295	0	—	0.1	0
North Kansas City	20,338	105	.5	8.3	0.2
Liberty*	3,846	110	2.9	1.6	0.3
Excelsior Springs	3,627	41	1.1	1.5	0.1
Platte County	1,367	15	1.1	0.6	—
Park Hill	6,696	51	0.8	2.7	0.1
Belton	4,188	120	2.9	1.8	0.3
Raymore-Peculiar	2,226	8	0.4	0.9	—
Harrisonville	2,243	15	0.7	0.9	—
Totals	158,688	31,487		65.1[a]	71.8[a]

[a] Totals are less than 100% because of omission of K.C. SMSA districts in the State of Kansas.
Derived From: Elementary and Secondary School Civil Rights Survey Reports, December 7,1977.
*Data from 1978 Elementary and Secondary School Civil Rights Survey Reports, December 1978.
Source: David L. Colton, Daniel U. Levine and Eugene E. Eubanks, *Financial Aspects of Interdistrict Approaches to School Desegregation in Metropolitan St. Louis and Metropolitan Kansas City* (St. Louis, 1979), pp. 86–86a.

Table 2–3

Minority Enrollment in Selected Suburban Schools, Missouri Portion of Kansas City SMSA

District Name	Total Minority Enrollment for Reporting Year	Highest Minority Enrollment in a School in the District			Lowest Minority Enrollment in a School in the District		
		Elementary	Junior High	Senior High	Elementary	Junior High	Senior High
Center*	6.2%	15%	7%	5%[a]	0.3%	3%	5%[a]
Hickman Mills**	13%	37.7%	13%	13%	3%	6%	7%
Raytown*	4.3%	18%	6%	5%	1%	3%	3%
Independence*	N/A	10%	6%	4%	0.5%	2%	N/A
Blue Springs*	3.9%	N/A	2.4%	1.8%	N/A	1.7%	1.8%[a]
Lee's Summit*	0.9%	N/A	N/A	N/A	N/A	N/A	N/A
Grandview*	6.3%	11%	8%	3%[a]	2%	6%	3%[a]
Fort Osage	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Liberty*	4.6%	5%	7%	4%	1%	7%	4%
North Kansas City*	3%	N/A	N/A	N/A	N/A	N/A	N/A
Park Hill*	3.3%	N/A	N/A	N/A	N/A	N/A	N/A

Note: N/A means data not available.
* Single School in the district.
Derived From: *1976–77 Office of Civil Rights Survey Reports
**1978–79 Office of Civil Rights Survey Reports
Source: David L. Colton, Daniel U. Levine and Eugene E. Eubanks, *Financial Aspects of Interdistrict Approaches to School Desegregation in Metropolitan St. Louis and Metropolitan Kansas City* (St. Louis, 1979)

cent), black enrollment in the Missouri suburbs increased by 1,088 pupils or 115 percent, and their share of total enrollment 0.8 percent to 2.1 percent. The largest increases in black enrollment occurred in the Hickman Mills, Raytown and Grandview school districts.[21]

The Kansas City, Kansas, school district is currently under a court order to desegregate.[22] However, the neighboring Shawnee Mission school district, which borders a substantial portion of the Kansas City, Missouri, School District, should not be overlooked. In 1976–77, the latest school year for which HEW has published statistics, only 1 percent of the Shawnee Mission student body was black, about 0.6 percent of the SMSA total, while its total student body was about 19 percent of the SMSA total.[23]

[21] Analysis based on data supplied by Colton, Eubanks, and Levine and information from the U.S. Department of Health, Education, and Welfare, Office for Civil Rights, *Directory of Public Elementary and Secondary Schools in Selected Districts (Fall 1972)* (1974), pp. 746–86.

[22] U.S. v. Unified School District 500, 609 F2d 688.

[23] U.S., Department of Health, Education, and Welfare, Office for Civil Rights, *Directory of Elementary and Secondary School Districts and Schools in Selected Districts, School Year 1976-1977* (n.d.), p. 606.

3. The Status of Metropolitan Desegregation as a Remedy

The reports of efforts to achieve metropolitan remedies in St. Louis and Kansas City have often been tinged with hints of skepticism about either the prospects for a legally imposed metropolitan solution or the probable success of voluntary measures or both. In this chapter the Advisory Committee reviews the current state of the law governing metropolitan remedies, and the effectiveness of such remedies, whether mandated by court order or voluntary.

Milliken v. Bradley (1974), in which the United States Supreme Court held that a metropolitan remedy was inappropriate for the Detroit area, has been believed to effectively limit the prospects for metropolitan remedies.[1]

The U.S. Commission on Civil Rights has stated that:

> Despite the largely negative tone of the majority opinion, the prevailing Justices [in *Milliken*] did not close the door on efforts to achieve metropolitan desegregation. In Mr. Justice Burger's opinion and in a somewhat more expansive, separate concurring opinion written by Justice Stewart, they went to some lengths to suggest that metropolitan relief might be justified if an appropriate record were presented. The Justices appeared to agree that if the constitutional violation was based on the action of a single entity, the act must be a purposeful act of discrimination that is shown to have had a significant impact on the racial composition of public schools of the districts sought to be included in the metropolitan decree. In the view of the majority, an interdistrict remedy may be justified if:
>
> —'[t]here has been a constitutional violation within one district that produces a significant segregative effect in another district;' or
>
> —'district lines have been deliberately drawn on the basis of race'; or State officials 'contributed to the separation of the races by drawing or redrawing school district lines'; or
>
> —State officials 'had *contributed* to the separation of the races. . .by purposeful racially discriminatory *use* of State housing or zoning laws.'[2]

Gary Orfield of the Brookings Institution contends, however, that:

> In practice, the Milliken approach institutionalizes a new kind of regional legalized segregation. In the past, because Federal courts deferred to State law, a black student who had the misfortune to be born in one of the seventeen States of the southern and border regions had a right to attend only a segregated black school. Today, for different reasons, urban black and Hispanic children in the industrial belt from Connecticut to Illinois must often attend a segregated school, even if a history of de jure segregation has been proved, because they happen to live in a region where the school district lines define segregated residential areas.[3]

[1] Gary Orfield, *Must We Bus?* (Washington, D.C.: The Brookings Institution, 1978), p. 394.

[2] U.S., Commission on Civil Rights, *Statement on Metropolitin School Desegregation* (February 1977), pp. 92-3. Footnotes omitted. Emphasis in the original.

[3] Gary Orfield, *Must We Bus?*, p. 417.

Subsequent action by the United States Supreme Court and the lower Federal courts has supported the optimism of the Commission. In *Board of Education of Jefferson County, Kentucky v. Newburg Area Council, Inc.* [4] the Court held that segregation in Louisville could be remedied by merger with the surrounding Jefferson County school district. A similar finding was made regarding Wilmington, Delaware, in *Evans v. Buchanan.* [5] While the United States Supreme Court has remanded other proposed metropolitan remedies (e.g., Indianapolis),[6] it is not certain that these ultimately will be rejected if appropriate facts can be presented by plaintiffs. An example of a successful argument for an interdistrict remedy is *Morrilton School District No. 32 v. United States.* [7] In that case the United States Court of Appeals for the Eighth Circuit, which includes Missouri, upheld the finding of the District Court for the Eastern District of Arkansas which held that a court imposed interdistrict remedy for continued school desegregation would be appropriate where six consolidated school districts in Conway County, Arkansas, reflect:

> a continuing result of State imposed racial segregation, and that its present existence is the result of inertia and a lack of State machinery to bring about a change in the situation in a context other than consensual.[8]

The court based its findings on a pattern of school district consolidation in which formerly *de jure* black school districts combined with other such districts, even though in three instances the consolidated white districts include one or more predominantly black predecessor districts. In affirming the need for an interdistrict remedy, the Court of Appeals, citing the standards established in *Milliken v. Bradley,* asserted that even though the two predominantly white districts which were appealing were not directly implicated in the establishment of predominantly black districts "the effects of the unconstitutional State action are felt in both districts and they cannot escape involvement in the remedy."[9] Further, the Court noted that imposition of a plan recommended by the United States Department of Justice was appropriate because although they had been negotiating for 6 years, the districts had not developed a plan which offered a sufficient remedy.[10]

Some scholars have suggested that if housing discrimination by suburban jurisdictions can be proved, this is a wedge through which metropolitan school desegregation can be achieved. Dr. Robert Weaver, then President of the National Committee Against Discrimination in Housing and former Secretary of the U.S. Department of Housing and Urban Development, provided ample evidence to the U.S. Commission on Civil Rights on the extent to which the suburbs were created, with Federal assistance, to become havens for continued segregation.[11] Professor Orfield, in *Must We Bus?,* cites racially restrictive covenants, exclusion of subsidized housing, discrimination by home finance institutions, FHA and VA mortgage policies supporting segregation, inadequate police protection for minority homebuyers in predominantly white neighborhoods, and the use of subsidized housing to intensify segregation as practices which might be shown to have had an impact on the schools. He asks, "If suburban neighborhoods were created by unconstitutional State action, can the courts limit remedies to those outside the suburban sanctuaries?"[12]

That metropolitan school desegregation may maintain stable enrollments while achieving racial balance in the schools is evidenced by the success of seven school districts in Florida, and one each in Tennessee, North Carolina, and Nevada. Professor Orfield lists these districts and shows other districts

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[4] 418 U.S. 918 (1974). The legal history of this case is: 489 F.2d 925 (6th Cir. 1973), *vacated and remanded,* 418 U.S. 918 (1974), *reinstated upon remand,* 510 F.2d 1358 (6th Cir. 1974), *cert. denied,* 421 U.S. 931 (1975), *further proceeding sub nom.* Cunningham v. Grayson, 541 F.2d 538 (6th Cir. 1976), *cert. denied,* 429 U.S. 1074 (1977).

[5] 423 U.S. 963 (1975). The legal history of this case is: 393 F. Supp. 428 (D. Del. 1975), *further proceedings,* 416 F. Supp. 328 (D. Del. 1976), *stay denied,* 424 F. Supp. 875 (D. Del. 1975), *appeal dismissed,* 429 U.S. 973 (1976), *modified and remanded,* 555 F.2d 373 (3rd Cir. 1977) (en banc), *cert. denied* 434 U.S. 880 (1977), *on remand,* 447 F. Supp. 982 (D. Del. 1978), *aff'd,* 582 F.2d 750 (3rd Cir. 1978) (en banc), petition for *cert. filed,* 48 U.S.L.W. 3097 (U.S. Oct. 20, 1978) (Nos. 78-671, 78-672).

[6] U.S. v. Board of School Commissioners of City of Indianapolis, 541 F.2d 1211 (7th Cir. 1976), *vacated and remanded,* 429 U.S. 1068 (1977), *reconsidered* 573 F.2d 400 (7th Cir. 1978), *cert. denied,* 439 U.S. 824 (1978), *on remand,* 456 F. Supp. 183 (S.D. Ind. 1978).

[7] 606 F.2d 222 (8th Cir. 1979). See also United States v. Missouri, 363 F. Supp. 739 (1975), 515 F.2d 1365 (8th Cir. 1975), *cert. denied,* 423 U.S. 951 (1975). In that St. Louis case, the United States Supreme Court upheld without comment a decision by the Federal District Court for the Eastern District of Missouri that the exclusion of the all black Kinloch School District from school district reorganization constituted State action to maintain illegal segregation. It ordered the merger of Kinloch district with the school districts of Berkeley and Ferguson-Florissant.

[8] 606 F.2d 225.

[9] 606 F.2d 228-29.

[10] 607 F.2d 229-30.

[11] U.S., Commission on Civil Rights, *School Desegregation: The Courts and Suburban Migration* (Dec. 8, 1975), pp. 15-59.

[12] Orfield, *Must We Bus?,* pp. 408-409.

of comparable size that have not yet been ordered to desegregate.[13] Analysis of evidence on desegregation by the Florida districts shows, that ". . .metropolitan desegregation, with racial balance applied throughout large school districts, need produce neither declines in white support for the public schools nor erosion of enrollment beyond that normally expected."[14]

Professors Colton, Levine, and Eubanks have noted several voluntary metropolitan remedies including those in Rochester, New York; Milwaukee, Wisconsin; and Boston, Massachusetts, which do result in a small reduction in racial isolation of area schools.[15] Indeed, they note, Emergency School Aid Act regulations provide for grants for "metropolitan area projects" to assist school districts wishing to use either interdistrict transfers or develop areawide plans for the reduction or elimination of minority racial isolation.[16] However, HEW told the Advisory Committee that while there had been no appropriation under the metropolitan projects section of the law, funds would be available under special programs and projects for such grants if any applications were made.[17]

The most widely cited example of a voluntary metropolitan remedy is the "Wisconsin plan." Wisconsin's law, Chapter 220 (1975), promotes interdistrict transfers by paying for the "transfer of students between schools and between school districts to promote cultural and racial integration in education."[18] Chapter 220 provides the full costs of transportation for interdistrict transfer students, and allows the sending district to continue to count each student for State aid. The latter provides an incentive for districts to send students elsewhere. Chapter 220 also provides that the receiving district be reimbursed up to the average cost of education for regular students in that district. No district loses money. Planning councils must be set up by each district to recommend to their respective boards how many transfer students to accept. However, all transfers are voluntary. Participation data indicate that approximately 1,000 children are being exchanged between city and suburbs. Most of the interdistrict transfers are from city to suburban schools. (Thousands more are transferring among subdistricts within Milwaukee.) Professors Colton, Levine, and Eubanks conclude that: "Local authority, fiscal incentives, and voluntary participation are the key aspects of the Wisconsin plan. These are important considerations in the politics and the pedagogy of education, and help account for the national interest which Chapter 220 has attracted."[19]

Efforts to pass similar legislation in the 1979 Missouri General Assembly died in the Senate Education Committee. Senate Bill 859, filed by Senator J.B. "Jet" Banks in the 1980 session, also died in committee. Neither the State board of education nor the commissioner of the Missouri Department of Elementary and Secondary Education announced support for these bills. A department spokesperson stated that of the more than 200 bills related to education which are introduced at each session of the legislature the board chooses to endorse only three or four bills and that SB 859 was not one of these. However, a department spokesperson noted the board statement in 1979 supporting voluntary efforts.[20] Such bills have been supported by both the St. Louis and Kansas City school districts.[21]

The two metropolitan areas already contain examples of metropolitan school consolidation. Superimposed on the 23 local districts of St. Louis county is a "special school district" which provides programs and services for handicapped students and which operates two vocational-technical high schools. More than 6,000 students from the county's local districts are enrolled.[22] On the Kansas City side, students from Raytown, Center, Grandview, Lee's Summit, Hickman Mills, and Independence school districts can attend the Joe Hearndon Vocational School. Other area vocational schools are scattered throughout the State.

Existing Missouri law clearly permits several forms of interdistrict cooperation. For example, one Missouri statute provides that a student may be

[13] Ibid., p. 412.
[14] Ibid., p. 413.
[15] David L. Colton, Daniel U. Levine, and Eugene E. Eubanks, *Financial Aspects of Interdistrict Approaches to School Desegregation in Metropolitan St. Louis and Metropolitan Kansas City* (St. Louis: Center for the Study of Law in Education, Washington University, July 1979) (hereafter cited as *Colton and others*), p. 3.
[16] 45 CFR 185.31-185.35 (1979).
[17] Rita Leifhelm, Public Affairs Office, Office of the Principal Regional Official of HEW, telephone interview, Apr. 23, 1980.
[18] Chapter 220, Laws of 1975, §121.85.
[19] *Colton and others*, p. 131.
[20] Bill Wasson, Deputy Commissioner, Department of Elementary and Secondary Education, telephone interview, Mar. 12, 1980.
[21] *Kansas City Star*, Nov. 20, 1979.
[22] *Colton and others*, p. 51.

assigned to a school in another district if that school is "more accessible."[23] Another provides for the establishment of special districts to admit non-resident students on a tuition basis.[24] Provision is also made for schools to admit non-resident students on a tuition basis.[25] Consolidation has for a long time been encouraged by the State. (But Kansas City, alone of all large city school districts in the State, was forbidden to expand its boundaries.)[26] In short, while additional legislative assistance may be required, the foundation of law for metropolitan remedies is in place for a within-Missouri remedy for both St. Louis and Kansas City. Indeed, there is even precedent for cross-State line remedies in the Kansas City area. There are interstate compacts providing for provision of higher education by Kansas and Missouri universities to residents of each other's States at resident fees.[27]

Gary Orfield has concluded that, whatever the problem:

> the metropolitan issue is one that will not go away because it reflects the social reality of our largest urban centers. Eventually either the Supreme Court or the nation's political leaders will have to choose between segregation and metropolitan change.[28]

[23] Mo. Rev. Stat. §167.121 (1979).
[24] Mo. Rev. Stat. §162.825 (1979).
[25] Mo. Rev. Stat. §178.490, §178.500 (1979).
[26] Mo. Rev. Stat. §165.263 (1949) and §162.421 (1959).

[27] Kansas and Missouri Advisory Committees: *Crisis and Opportunity: Education in Greater Kansas City* (January 1977), p. 18.
[28] Orfield, *Must We Bus?*, p. 420.

4. Legal Status of St. Louis and Kansas City

In this chapter, the Advisory Committee reviews the status of desegregation lawsuits involving the two central cities and suburban districts.

St. Louis

St. Louis had formally desegregated its schools immediately following *Brown* by ending the practice of separate schools and establishing neighborhood schools at the elementary level. Indeed, between 1954 and 1963 the district's formal policy was "color blind" to the extent that it maintained no formal records on the race of pupils attending schools.[1]

In 1972 a group of black plaintiffs, Concerned Parents of North St. Louis, brought suit seeking desegregation of the St. Louis City schools, charging that the board of education of the City of St. Louis had discriminated against their children.[2] The St. Louis board of education sought to have twenty-one school districts in St. Louis County named as co-defendants, arguing that only with their participation could stable desegregation be achieved. The United States District Court for the Eastern District of Missouri rejected the motion as premature and the school district admitted it had none of the evidence of intentional participation on the part of the St. Louis County school districts in discrimination that *Milliken v. Bradley* [3] had suggested was necessary.[4]

On Dec. 24, 1975, Judge James H. Meredith of the Federal District Court approved a consent decree in which the board of education admitted there was segregation and agreed to a program to ameliorate conditions.

> [Defendant school board was] enjoined and prohibited from discriminating on the basis of race or color in the operation of the School District of the City of St. Louis, and shall be required to take affirmative action to secure unto plaintiffs their right to attend racially nonsegregated and nondiscriminatory schools, and defendants will afford unto plaintiffs equal opportunities for an education in a nonsegregated and nondiscriminatory school district, and shall be required to take the affirmative action hereinafter set forth.[5]

The decree provided for the establishment of a magnet school program, gradual achievement of a racially balanced staff in each school, and a study by the district of the feasibility of realigning elementary feeder schools to the academic high schools for the purpose of reducing racial isolation and segregation at the high schools.[6]

Protesting the remedy as insufficient, the St. Louis branch of the NAACP and representatives of other groups moved to intervene. This was denied by Judge Meredith who was reversed by the United States Court of Appeals.[7] In the same decision, the Court of Appeals ordered the District Court to invite the United States Department of Justice and the Missouri State Board of Education to intervene as defendants. The various parties were allowed to intervene in 1977.

In light of the United States Supreme Court decisions concerning Detroit, Dayton, and Omaha, Judge Meredith decided in July 1977, on his own motion, that it would be necessary to "determine if

[1] *St. Louis Post-Dispatch*, Oct. 20, 1977.
[2] Liddell v. Board of Education, CV No. 72C 100 (1)(Feb. 18, 1972).
[3] 418 U.S. 717 (1974).
[4] *St. Louis Post-Dispatch*, Oct. 17, 1977.
[5] Cited in Center for Metropolitan Studies, *Resolving the Desegregation Issue in the St. Louis Public Schools* (St. Louis: University of Missouri-St. Louis, February 1978), pp. 8-9.
[6] Ibid., pp. 9-10.
[7] Liddell v. Caldwell, 546 F.2d 768 (8th Cir. 1976).

there had been a constitutional violation by the defendants." The Order also stated that "the remedy to be adopted by the Court will depend on the nature and extent of the constitutional violation, if any."[8]

At trial, plaintiffs contended that school practices intentionally maintained segregated schools. Evidence was presented to show that after establishing neighborhood schools there was an informal arrangement whereby the district did not place a child of one race in a class with only children from the other. A demographer presented evidence that neighborhood boundaries of black schools expanded as black families moved, while those of white schools contracted as white families moved out. The school district also followed the practice of busing white children to other predominantly white schools to relieve overcrowding, rather than to nearer black schools which had empty spaces. In the early sixties the district also practiced "intact busing" of children from overcrowded schools to less crowded schools in self-contained classes. The bused students were kept separate in both playground and school rooms from students at the receiving school. Most of the affected students were blacks bused to white schools.[9]

The argument for a metropolitan remedy was again raised by the school board at trial. George D. Wendel, director of the St. Louis University Center for Urban Programs, a school district witness, discussed a metropolitan remedy as the only way to prevent "white flight."[10] Taken alone, though, "white flight" is not a basis for allowing a metropolitan remedy. Further, the District Court found no constitutional violation on the part of the defendants and never considered a metropolitan remedy.[11] The case was appealed.

On Mar. 3, 1980, the Court of Appeals issued its decision and remanded the case to the District Court.[12] Reversing the District Court, it rejected as insufficient arguments that the St. Louis school board's actions were facially neutral. The Court stated that:

> The facts are that most schools in the heart of North St. Louis were black in 1954 and remain black today, and that most schools in South St. Louis were white in 1954 and remain white today. The Board of Education has simply never dealt with this overwhelming reality. If the Board had dealt with the problem in 1954–1956 and had implemented a plan for integrating the schools in North and South St. Louis, we would have a different case today. We would have to examine the question from an entirely different point of view. See *Pasadena City Board of Education v. Spangler*, 427 U.S. 424 (1976). But it did not; the schools remain segregated and we have no choice but to adopt a practical remedy to achieve an integrated school system.
>
> We do recognize that many of the factors cited by the Court, including actions of the State and Federal governments, have intensified racial segregation in North St. Louis. We have taken this fact into consideration in determining the appropriate remedy in this case. We have no alternative but to require a system-wide remedy for what is clearly a system-wide violation.[13]

While the Court of Appeals did not order a metropolitan remedy, in a footnote to its opinion the Court acknowledged the role of the suburbs in maintaining the segregated school system. After citing the limits on court ordered metropolitan remedies as expounded in *Milliken v. Bradley*, the Court of Appeals stated:

> St. Louis County suburban school districts, pursuant to State law prior to *Brown*, collaborated with each other and with the City of St. Louis to ensure the maintenance of segregated schools. . .Included among the pre- *Brown* practices of these districts was the assignment and transportation of black students living in the suburbs to black schools in the City. Moreover, as noted in part VI of this opinion, governmental policies may have intensified segregation in the St. Louis area.[14]

The Court suggested, but did not require, that part of the St. Louis plan to remedy existing segregation might be:

> Developing and implementing a comprehensive program of exchanging and transferring students with the suburban school district of St. Louis County. The Board shall seek the co-

[8] Center for Metropolitan Study, *Resolving the Desegregation Issue. . .*, p. 29.

[9] *St. Louis Post-Dispatch*, Oct. 14, 1977, Oct. 15, 1977, Oct. 18, 1977, Oct. 20, 1977, Oct. 21, 1977, Oct. 23, 1977, Oct. 28, 1977, and Adams v. United States, No. 79-1468, slip opinion, pp. 28-29 (8th Cir. Mar. 3, 1980).

[10] *St. Louis Post-Dispatch*, Mar. 17, 1978.

[11] Liddell v. Board of Education, F. Supp. 1304 (E.D. Mo. 1979).

[12] Adams v. United States, No. 79-1468, slip opinion (8th Cir., Mar. 3, 1980).

[13] Ibid., pp. 36-37.

[14] Ibid., p. 45, Fn 27.

operation of such school districts, the State Board of Education and the United States in developing and implementing such a plan.[15]

A petition for rehearing filed by the city of St. Louis and a motion to clarify filed by the St. Louis Board of Education were denied by the Court of Appeals on April. 10, 1980.[16]

Judge Meredith required the district to develop a plan for submission on May 2, 1980. To assist him in assessing the plan, he appointed a citizens committee composed of 10 blacks and 10 whites, chaired by Edward T. Foote, Dean of the Law School of Washington University–St. Louis. Judge Meredith also appointed an independent expert, Professor Gary Orfield, to assist him and the citizens committee.[17] The committee and Professor Orfield interacted with the school board and its staff in developing the board's submission,[18] and reviewing draft plans that were submitted from time to time.[19]

An initial plan was submitted by the board of education on May 2. It was modified in response to comments by Professor Orfield on May 8. The citizens' committee also filed a report with the Court. Some of its suggestions had been adopted by the school board, some had not.[20] Following hearings held between May 12-15, 1980, Judge Meredith ordered, on May 21, 1980, the implementation of the school district's plan with minor modifications. The principal elements of the plan were:

1. clustering of elementary schools
2. reassignment and transportation of high school students
3. continuation of existing magnet schools and creation of six new schools
4. creation of specialty programs to be offered to all students in the district
5. North St. Louis schools would be offered development and enrichment programs including remedial and compensatory features
6. sharpening the provisions applicable to permissive transfers
7. commitment by the board to seek and develop interdistrict plans of voluntary cooperation with school districts of St. Louis County
8. adoption of a 'Singleton' type faculty assignment plan to equalize the proportion of minority and majority faculty in each school
9. regular reporting to the court
10. monitoring of the plan
11. citizen participation in implementation[21]

In his Findings of Fact and Conclusion of Law supplementing his order of May 21, Judge Meredith stated that:

> The Court recognizes that the Board's Plan, although it conforms to the Court of Appeals' mandate, will not provide a fully desegregated education for every black child in the school system. However, the Board's Plan, developed under the Orfield approach, holds the promise of providing the 'greatest possible degree of actual desegregation, taking into account the practicalities of the situation,' *Davis* v. *Board of school Commis.*, 402 U.S. 33, 37 (1971). Included in the 'practicalities' of the case is the current absence of suburban school districts amongst the parties of record. No suburban school district is now a party to this case and none can be ordered to participate until its rights have been adjudicated.[22]

The State of Missouri was ordered to pay one-half of the cost of desegregation, or not more than $11,076,206. The Federal Government, State of Missouri and school district were asked to explore ways to reduce the costs of transportation.[23] The school district's share of the costs of desegregation was to be paid by using $4,668,000 from the district's debt retirement and by obtaining Federal funding under the Emergency School Aid Act (ESAA) and other Federal programs. The State, United States and board of education were ordered to try to develop a voluntary interdistrict transfer plan for the 1980-1981 school year and report to the court by July 1, 1980 (later extended to mid-July), to submit by Nov. 1, 1980 a plan for consolidation of the Special District of St. Louis County and the school district of the city of St. Louis for implementation in the 1981-82 school year, submit by Nov. 1, 1980 a plan for interdistrict desegregation to eradicate the remaining vestiges of government-impose school segregation in the City of St. Louis and St. Louis County and submit by Nov. 1, 1980 a plan to ensure

[15] Ibid., p. 50.
[16] Adams v. United States, No. 79-1468, order denying rehearing, (8th Cir., Apr. 10, 1980).
[17] Findings of Fact and Conclusions of Law, at pp. 1-2, Liddell v. Board of Education No. 72-100-C(C), E.D. Mo., June 3, 1980.
[18] Ibid., p. 2.
[19] Ibid.
[20] Ibid., p. 3.
[21] Ibid., p. 5.
[22] Ibid., p. 9.
[23] Ibid., p. 4.

that federally-assisted programs do not have an adverse impact on desegregation of the schools.[24]

Discussing the liability of the State of Missouri, Judge Meredith stated:

> The post- *Brown* Fourteenth Amendment obligation of a State that has operated a legally imposed racially dual school system is clear. See, e.g., *United States* v. *State of Missouri,* 363 F. Supp. 739, 747 (E.D. Mo. 1973), *aff'd in relevant part,* 515 F.2d 1365 (8th Cir. 1975), *cert. denied,* 423 U.S. 951 (1975):
>
> > A State, such as Missouri, which has in the past operated a racially dual system of public education, pursuant to State constitutional and statutory requirements *and continuing policy, practice, custom and usage* is, and has been since 1954, under an additional constitutional obligation to take such affirmative measures as are necessary to disestablish that dual system and eliminate the continuing vestiges of that system. . . .
>
> Upon the decision in *Brown II,* 349 U.S. 294 (1955), it became the constitutional duty of the defendant State of Missouri to obliterate all vestiges of such State-imposed segregation. This obligation, as fleshed out in *Brown II's* progeny, required the State 'to do more than abandon its prior discriminatory' conduct. *Dayton Bd. of Educ. v. Brinkman,* 443 U.S.526, 538 (1979) (*DaytonII).* Rather, the State, and, upon its default, now the Court, has the duty 'to eliminate the discriminatory effects of the past as well as bar like discrimination in the future.' *Louisiana v. United States,* 380 U.S. 145, 154 (1965). *See also Dayton II, supra; Columbus Bd. of Educ.* v. *Penick,* 443 U.S. 449, 458-61 (1979); *Milliken* v. *Bradley,* 443 U.S. 267 (1977) (*Milliken II)* ; *Swann* v. *Charlotte-Mechlenberg Bd. of Educ.,* 402 U.S. 1 (1971), and companion cases; *Green* v. *County School Bd.,* 391 U.S. 430 (1968), and companion cases. As the Supreme Court squarely held in *Milliken II, supra,* the Fourteen Amendment requires responsible 'State officials. . . .to take the necessary steps 'to eliminate from the public schools all vestiges of State-imposed segregation." 433 U.S. at 289-90.
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> In sum, the State defendants stand before the Court as primary constitutional wrongdoers who have abdicated their affirmative remedial duty. Their efforts to pass the buck among themselves and to other State instrumentalities must be rejected:
>
> > The State cannot escape responsibility for the racial discrimination disclosed in this case or the obligation to correct the effects of such discrimination by neatly compartmentalizing the authority and responsibilities of its various instrumentalities and then contending that no single instrumentality is wholly responsibility for the unlawful segregation or has the power to correct the unlawful segregation.
>
> *United States* v. *State of Missouri, supra* at 748. Since '[t]he primary responsibility for insuring a constitutional structure of public education is that State's,. . .it is appropriate for the Court to order the State' to affirmatively participate in remedial efforts, *Id.* at 749, including the provision of funding, to the extent necessary, for the desegregation efforts ordered by the Court. *See, e.g., Milliken II, supra* ; *Evans* v. *Buchanan,* 447 F. Supp. 982 (D.Del.), *aff'd,* 582 F.2d 750 (3rd Cir. 1978), *cert denied,* 48 L.W. 3696 (Apr. 4, 1980).[25]

Parents for Neighborhood Schools, a group of southside parents, appealed to the United States Supreme Court for a stay of the Court of Appeals decision. This was rejected both by Mr. Justice Blackmun and by the entire Court.[26]

The May 21st Order of Judge Meredith was also appealed. Concerned Parents for North St. Louis (Liddell) and the NAACP appealed the Order on the grounds that it did not require sufficient desegregation.[27]

Missouri Attorney General John Ashcroft asked the Court of Appeals to delay implementation of the May 21st Order, alleging that the District Court had no authority to order the State to pay the costs of the plan or to require merger of the vocational education programs of the city and county.[28] Concerned Parents for Neighborhood Schools also appealed, arguing that the plan was unfair to southside children.[29] These appeals were rejected just as the Advisory Committee completed its draft of this report.[30]

Of particular interest to the Advisory Committee was implementation of the voluntary efforts to promote desegregation using interdistrict measures.

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[24] Liddell v. Board of Education, No. 72-100-C(C), Order *filed,* May 21, 1980.

[25] Findings of Fact and Conclusions of Law at pp. 9-11.

[26] *St. Louis Post-Dispatch,* May 19, 1980.

[27] *St. Louis Post-Dispatch,* July 10, 1980.

[28] *St. Louis Post-Dispatch,* July 11, 1980.

[29] *St. Louis Post-Dispatch,* June 10, 1980.

[30] *St. Louis Post-Dispatch* , Aug. 17, 1980.

On May 22 the *Post-Dispatch* reported critical comments on the Court's Order from the Mayor of Webster Groves, the Mayor of Richmond Heights and the Mayor of Rock Hill. The Mayor of Maplewood approved. Some St. Louis County councilmen condemned 'even the prospect of county involvement.' School officials of Valley Park, Mehlville, Lindbergh, Brentwood, Ferguson-Florissant, Bayless, Hancock Place, Maplewood-Richmond Heights, Webster Groves, Riverview Gardens, Pattonville and Ladue were noncommital. Officials of Ritenour and Rockwood school districts were negative. Most sympathetic were officials from Parkway, Kirkwood, Clayton and University City.[31]

In an interview with *Post-Dispatch* staff, Judge Meredith commented the next day that "suburban districts 'run the risk of losing Federal aid' if they reject desegregation efforts."[32] That day interviews with six school district board presidents were summed up by the *Post-Dispatch* as showing they had an "open mind" on desegregation (the districts were Parkway, Kirkwood, Ladue, Clayton, Ferguson-Florissant and Hazelwood). The President of the University City Board pointed out her district was already integrated.[33]

The State Board of Education announced on May 29th that it would assist the St. Louis city board of education in developing a voluntary scheme but without intending to waive its right of appeal.[34] The *Post-Dispatch* reported on June 9th that officials from several of the major suburban districts expected the city to take the lead by calling a meeting to outline what would be needed.[35] Several districts expressed concern about the implications of their attendance at any meeting to discuss voluntary measures[36] and the meeting, called by State officials for June 18, was nearly cancelled by the State on July 17 because it had decided that any participation might jeopardize its rights of appeal. The State also had withdrawn its support for the St. Louis city school board's Emergency School Aid Act (ESAA) application. (The State's appeal had challeged the the portion of the Court's decision that required it to participate in developing a voluntary city-county pupil exchange program.)[37]

The State and others told the Court on June 17 that they were concerned that by cooperating with St. Louis city they feared they would prejudice their right to appeal and their position on appeal. The Court ordered that "nothing any of the parties may do pursuant to these previosuly mentioned Orders will any way prejudice their position on appeal. . . .It is further ordered that any school district of St. Louis County that enters into a plan of voluntary cooperation with the School Board of the City of St. Louis will not in way prejudice its legal right to oppose or resist a suit or orders requiring compulsory cooperation."[38]

The *Post-Dispatch* summarized the 15 point plan presented by the State to the representatives of 22 school districts on June 19 (Hazelwood and Lindbergh were unrepresented):

> (1) The State will contact the City of Louis School District and all St. Louis County school districts individually to determine potential placement opportunities for voluntary participants in the following programs: regular elementary, regular secondary, special education, gifted, vocational education, and special and magnet schools.
>
> (2) The sending districts will pay the tuition for pupils approved for transfer to the receiving districts. (The St. Louis Public Schools have applied for and expect to receive Emergency Aid Act funds to defray the tuition costs for a limited number of students. Cooperating county districts will be eligible to apply for emergency funds to assist with tuition costs. County schools will be invited to submit a combined emergency request with the city to enhance the likelihood of receiving such funds.)
>
> (3) For students participating in a transfer, the State will pay the district of residence the aid per eligible pupil to which it is entitled.
>
> (4) The sending district will provide necessary transportation for pupils participating in the voluntary transfer program. (St. Louis City Public Schools expect that in most instances, arrangements can be made whereby the city will provide transportation for county students.)
>
> (5) The State will pay transportation aid in accordance with State Board of Education

[31] *St. Louis Post-Dispatch*, May 22, 1980.
[32] *St. Louis Post-Dispatch*, May 23, 1980.
[33] *St. Louis Post-Dispatch*, May 23, 1980
[34] *St. Louis Post-Dispatch*, May 30, 1980.
[35] *St. Louis Post-Dispatch*, June 9, 1980.
[36] *St. Louis Post-Dispatch*, June 16, 1980, June 17, 1980.
[37] *St. Louis Post-Dispatch*, June 18, 1980.
[38] Liddell v. Board of Education, No 72-100-C(C), Order *filed*, June 17, 1980.

regulations to the district responsible for the transportation.

(6) The State will encourage the development of magnet school programs in the school districts of St. Louis County. (St. Louis City Public Schools will make personnel available for technical assistance to county schools interested in developing magnet programs and schools. Inservice in city magnet schools will also be possible for county staff on request.

(7) The State will solicit agreement from St. Louis County school districts that they will not accept pupil transfers after Jan. 1, 1980. The transfers would impair the desegregation of the St. Louis City School District.

(8) The City of St. Louis Board of Education will provide county schools districts with information concerning selected educational programs in the St. Louis City School District available for transfer pupils. School districts in St. Louis County willing to accept transfer pupils will provide the St. Louis City Board with information about the educational program for transfer pupils.

(9) The State will encourage the city of St. Louis district and all school districts in St. Louis County to disseminate to the parents information concerning the voluntary cooperative plan of pupil exchanges that will assist in alleviating the school segregation in the city of St. Louis.

(10) The State will provide funds to assist approved inservice programs for teachers in schools receiving voluntary transfers from the city of St. Louis. (The department will consider requesting additional funds if necessary.)

(11) The State will provide technical assistance to districts participating in voluntary transfer programs.

(12) All transfer pupils will have the same opportunities, privileges, and responsibilities as resident students of the district. (The Missouri High School Activities Association will be contacted to determine what potential problems for eligibility will be encountered and to work out procedures that will minimize those problems.)

(13) The State will work with the city of St. Louis school officials and cooperating county school officials to carry out this plan.

(14) The State will review the programs involving interdistrict pupil transfers and consult with the districts about ways the programs may be improved and disseminate information about successful programs to all St. Louis County school districts.

(15) The exchange of teachers between county and city schools will be encouraged.[39]

The *Post-Dispatch* characterized the response of county school district officials as "noncommital." It reported that although St. Louis school board president Gordon Benson had asked the county officials to offer suggestions, none had volunteered any ideas. Representatives of two districts, Normandy and University City, pointed out that they were unsuitable participants because they had a higher percentage of black students than the city of St. Louis. A representative of Kirkwood school district commented that the key to success would be passage of a fiscal incentives bill so that both sending and receiving district would receive State aid.[40] The next day attorneys representing eight county school districts met with attorneys for the St. Louis public schools, the State of Missouri and the Justice Department to clarify whether or not their district's decision to join in voluntary efforts might have any bearing on any future suits. The county districts' attorneys indicated that they were concerned about liability, despite Judge Meredith's June 17 order.[41]

On June 24 Missouri Commissioner of Elementary and Secondary Education, Arthur L. Mallory, told a public forum in St. Louis that "if a voluntary plan is worked out, it may be that we can avoid a massive school desegregation order in the St. Louis area."[42]

In early July, the Affton School District and Clayton School District indicated they might participate. Valley Park had stated it would not.[43] Hancock Place School District decided refuse "not-of-district" transfers after July 1, 1980.[44] The rest were uncommitted.[45] School officials from Pattonville and Lindbergh questioned whether they could legally participate in such a program. The Special School District of St. Louis County filed a complaint asking that it not be required to take part in planning a

[39] *St. Louis Post-Dispatch*, June 19, 1980.
[40] *St. Louis Post-Dispatch*, June 19, 1980.
[41] *St. Louis Post-Dispatch*, June 20, 1980.
[42] *St. Louis Post-Dispatch*, June 25, 1980.
[43] *St. Louis Post-Dispatch*, July 6, 1980.
[44] *St. Louis Post-Dispatch*, July 10, 1980.
[45] *St. Louis Post-Dispatch*, July 6, 1980.

merger of its programs with those of the city schools. Later in the month, the Ritenour school district board also voted to oppose participation except on the usual payment basis.[46]

Describing the plan formally submitted by the city, State and Federal authorities on July 15, Arthur Mallory told the *Post-Dispatch* that it was essentially the same as the proposal the State had shared with the county school districts except that it emphasized joint activities as a prelude to future exchanges of pupils which could not be negotiated by the July 15 deadline.[47] Attorneys for the State, Federal Government and St. Louis School District filed the voluntary proposals on July 15 and indicated a second report would be filed on August 22 to show which districts would participate.[48] The August 22 report stated that no county school district had agreed to participate.[49]

Kansas City

Responding to *Brown*, in March 1955 the Kansas City, Missouri, school board approved its first school desegregation plan.[50] But, during the 20 years subsequent to that, the racial composition of schools in the district bore little relation to the districtwide percentage of minority students, even during the 1950s when minority students comprised between 10 and 25 percent of the district's enrollment.[51]

In 1963 community leaders criticized revisions in the boundaries of Central, Paseo, Westport, and Southwest High Schools because they had the foreseeable segregative effect of transferring white students from schools with increasing black enrollments.[52]

In 1965 the district commissioned a report on what might be done to facilitate desegregation by a committee chaired by Dr. Robert Havighurst and including Dr. William Cobb, then Assistant Superintendent of the San Francisco Public Schools and Dr. Norman Drachler, then Assistant Superintendent of the Detroit Public Schools. They recommended construction of a middle school and a new elementary school to reduce racial isolation and the construction of a senior high school and several junior high school facilities at locations which would have reduced segregation. Most of the recommendations were not approved.[53]

The United States Department of Health, Education and Welfare (HEW), Office for Civil Rights (OCR), established an office in Kansas City, Missouri, in 1972 and began discussions with Kansas City school officials about compliance with Title VI of the Civil Rights Act of 1964.[54] On April. 17, 1973, OCR notified the school district it was in presumptive noncompliance with Title VI. The district's rebuttal explanation was found insufficient and an on-site investigation was begun by OCR in May 1974. In March 1975 the United States District Court for the District of Columbia found the time for securing voluntary compliance had passed for the Kansas City school district and 39 others who had been earlier found in presumptive noncompliance. The Court ordered HEW to begin enforcement proceedings within 60 days of its order.[55] Subsequently, a letter of noncompliance was sent to the school board on April 14, 1975[56] and administrative law proceedings were initiated May 13, 1975.[57]

The voluntary conciliation phase was marked by the submission of a desegregation plan on June 23, 1975, modifying an earlier plan submitted June 2, 1975, which had been rejected. The June 23 plan was rejected by HEW July 14, 1975, and withdrawn by the school district in August 1975. An administrative hearing began December 8, 1975 and ended January 16, 1976.[58]

Administrative Law Judge Rollie D. Thedford found that the district had not dismantled its dual school system under the 1955 desegregation plan, that boundaries were drawn so as to maintain segregation, that new schools were built in locations likely to result in one-race schools, that the transfer policies of the district had contributed to the racial identifiability of district schools, and that one race schools under the dual system remained either predominantly white or black in the 20 years since *Brown*. He concluded "the District is intentionally operating a dual system of student assignment. . . ."[59]

During the proceedings, the school district argued that only a metropolitan remedy would succeed. It

[46] *St. Louis Post-Dispatch*, July 13, 1980.
[47] *St. Louis Post-Dispatch*, July 13, 1980.
[48] *St. Louis Post-Dispatch*, July 15, 1980.
[49] *St. Louis Post-Dispatch*, Aug. 23, 1980.
[50] HEW v. Kansas City, Missouri, School District (HEW Administrative Law Case Docket No. 5-92 (Dec. 22, 1976), p. 10.
[51] Ibid., pp. 17-18.
[52] Ibid., p. 23.
[53] Ibid., p. 24.
[54] Ibid., p. 10.
[55] Ibid., p. 50.
[56] Ibid., p. 13.
[57] Ibid., p. 50.
[58] Ibid., p. 11.
[59] Ibid., pp. 67-75.

contended that a within district remedy would result in further segregation, white flight, and eventual resegregation of the district.[60] It urged, as an alternative to an intradistrict desegregation plan, that HEW seek a metropolitan remedy through a Department of Justice suit.[61]

However, the Administrative Law Judge did not find a metropolitan remedy necessary.

> In the first instance, the District can achieve compliance with Title VI without consideration of a metropolitan solution. The breadth of a metropolitan solution is unnecessarily large to correct the District's noncompliance in regard to student assignment. . . .
>
> The finding of noncompliance is based upon violations by the district; and as described above, the District alone is able to adequately remedy such noncompliance. . .In determining noncompliance with Title VI, HEW is not required to look beyond the boundaries of the District.[62]

Following the administrative law proceedings, the district implemented a within district plan for desegregation, but it also accepted the recommendation contained in a report of the Missouri Advisory Committee to the U.S. Commission on Civil Rights[63] and filed suit in the United States District Court for the Western District of Missouri on May 26, 1977, to obtain a metropolitan remedy.[64] Plaintiffs were the Kansas City, Missouri, School District; the superintendent of schools for the district; and, the minor children of two school board members. Named as defendants were 18 Missouri and Kansas school districts; the States of Kansas and Missouri; the State board of education for both States; and, the United States Departments of Health, Education and Welfare; Transportation; and, Housing and Urban Development. Plaintiffs alleged that "areawide unlawful segregation caused the racial isolation of plaintiffs district and only areawide desegregation can undo the effects of these practices."[65] Among the government-sanctioned segregative acts cited by plaintiffs were racial segregation in housing, employment, recreation and transportation. It was alleged that Missouri erred in not reorganizing school districts to eliminate segregation and prohibiting the expansion of the Kansas City school district's boundaries. Suburban school districts were alleged to have transported black students to city schools until 1957, to have discouraged the involvement of black students in school activities and discriminated against black teachers so that defendant districts maintained all-white teaching and administrative staffs.[66]

On October 5, 1978, the complexion of the suit changed. Federal District Court Judge Russell R. Clark dismissed all the Kansas defendants and ordered the Kansas City, Missouri, School District to become a defendant in the suit, leaving only the minor children of two school board members as plaintiffs.[67] Judge Clark questioned "whether students could rely on the school board to remain consistent in its efforts on their behalf."[68] The United States Court of Appeals for the Eighth District rejected three appeals to reverse the decision.[69] To revive the suit, concerned citizens obtained new counsel and sought to add thirty-five minor students as plaintiffs.

In May 1979, an amended complaint was filed calling for the reorganization of fourteen Missouri school districts including Kansas City, on the grounds that their present racial composition (predominantly white except for Kansas City) was the consequence of deliberate acts by the Missouri Board of Education and the State government. Plaintiffs also filed a motion claiming the right to add the Kansas defendants later. The three Federal departments remained defendants.[70] On May 22, 1979, Judge Clark approved the revised lawsuit.[71]

The school district a few months later filed a cross-claim charging that the segregated character of the Kansas City district was caused by State action. The district urged the Court to "order the State to submit a plan to eliminate 'all vestiges of the dual segregated school system in the Kansas City metropolitan area.'"[72] The suit subsequently stalled

[60] Ibid., p. 38.
[61] Ibid., p. 39.
[62] Ibid., pp. 39-48.
[63] Kansas and Missouri Advisory Committees to the U.S. Commission on Civil Rights, *Crisis and Opportunity: Education in Greater Kansas City* (January 1977), pp. 137-38.
[64] School District of Kansas City, Missouri v. State of Missouri, No. 77-0420-CV-W-3 (W.D. Mo., May 26, 1977).
[65] *Kansas City Times*, May 27, 1977.
[66] Ibid.
[67] School District of Kansas City, Missouri v. State of Missouri, 460 F. Supp. 421 (1978).
[68] *Kansas City Times*, Oct. 7, 1978.
[69] *Kansas City Times*, Nov. 7, 1978, and Feb. 20, 1979.
[70] *Kansas City Star*, May 10, 1979.
[71] *Kansas City Star*, May 22, 1979.
[72] *Kansas City Star*, July 4, 1979.

over questions of conflict of interest on the part of the plaintiff's and the school district's counsel.[73] In October 1979, attorneys for the Civil Rights Division of the United States Department of Justice began a series of visits to Kansas City to determine whether it would be appropriate for the United States to enter the suit in support to the plaintiffs.[74]

Summary

Both in St. Louis and Kansas City attorneys have raised the prospect of a metropolitan remedy. While at this stage these actions are suspended, subsequent court decisions may make them salient. It is important that citizens and officials begins now to consider what measures they might take to facilitate implementation of any court ordered metropolitan remedy or what voluntary measures they might take that would obviate the need for court order. A remedy devised by the community involved may be far more efficient than a plan developed by the courts.

[73] *Kansas City Star*, Aug. 8, 1979; Aug. 16, 1979; Sept. 7, 1979; Sept. 27, 1979.

[74] *Kansas City Star*, Oct. 9, 1979.

5. Remedies

The Advisory Committee, after reviewing whether a metropolitan remedy is necessary for effective desegregation in the Kansas City and St. Louis areas, explored the range of options available for accomplishing that goal.

The Advisory Committee does not agree with the conclusions Professor James Coleman, author of the 1966 Coleman Report on school desegregation, has drawn from his new data, purporting to show that desegregation will not succeed because it causes 'white flight.' We agree that his data, and that of his critics, show desegregation efforts in larger central cities have been undermined because of demographic changes that began after World War II. The proportion of white students or middle class students, black or white, available to desegregate larger and older central city districts is diminishing in many areas.[1] Professor Gary Orfield has pointed out that:

> The statistics [from the 1970 census and later data] show that limiting desegregation to the central cities in metropolitan areas of significant size would effectively insulate over 70 percent of the white families earning more than $10,000. By the mid-1970's, the social class isolation was even greater. In several metropolitan areas, not only was almost all the white middle class gone from the central city schools, but most of the black middle class was attending either a public school outside the central city or a private school.[2]

Professor Orfield concludes that desegregation limited to the inner city district in such cities:

> combines,. . .groups who often have in common only the weakness of their school background, the powerlessness of their parents, and among older children a tendency toward overt hostility. It offers little chance for educational gain.[3]

Neither the Advisory Committee nor Professor Orfield suggest that such a conclusion can be used by central city districts to escape their responsibility to undo any violation of the law or the Constitution that may have resulted from past segregative acts. But it is clear that in the case of many larger and older central city school districts, a better remedy with a chance to maintain desegregation over a long period of time can be achieved by involving metropolitan areas.

The data assembled by Professors Colton, Levine, and Eubanks show that the conditions described by Professors Orfield, Coleman, and others also characterize the St. Louis and Kansas City metropolitan areas. In 25 years, from 1952 to 1978, enrollment in the St. Lous city schools dropped from 101,432 to 73,222 (18 percent) while St. Louis county school districts' enrollments increased from 71,060 to 190,973, an increase of 169 percent. During the period 1970–1978, white enrollment in the St. Louis city schools declined by 49 percent (from 38,268 in 1970 to 18,638 in 1978) while white enrollment in St.

[1] U.S., Commission on Civil Rights, *School Desegregation: The Courts and Suburban Migration* (Dec. 5, 1975), pp. 88–202. See also, Gary Orfield, *Must We Bus?* (Washington D.C.: The Brookings Institution, 1978), p. 407.

[2] Gary Orfield, *Must We Bus?*, p. 407.

[3] Ibid., pp. 407–08.

Louis county schools declined by only 26 percent (from 190,634 in 1970 to 140,933 in 1978).[4] In the Kansas City metropolitan area, during the period 1972–76, total enrollment in the Kansas City, Missouri, School District declined by 31 percent (65,414 in 1972 to 45,387 in 1976), in the Missouri suburban districts in Jackson, Clay, and Platte Counties by 3 percent (116,688 in 1972 to 112,927 in 1976), and by 10 percent in Shawnee Mission, Kansas (from 44,428 in 1972 to 39,942 in 1976). White enrollments dropped by 5 percent in the Missouri suburban districts, by 11 percent in Shawnee Mission, by 55 percent in Kansas City, Missouri, School District, and by 22 percent in the Kansas City, Kansas, School District.[5] Clearly, the central city districts are getting smaller, as well as losing substantial numbers of white pupils.

The overall enrollment in the suburbs is also declining, albeit more slowly. In short, both city and suburban districts face a common problem—how to minimize the impact of cuts in services and closing of facilities necessitated by long term declines in enrollment.

One solution to this problem could be for districts to share pupils and facilities—which is some instances would result in better utilization and avoidance of the costs of underutilized duplicate facilities or programs. Desegregation achieved by such sharing would be an added benefit. This would require interdistrict transportation of students.

Professors Colton, Levine, and Eubanks state that among the factors determining the actual cost of any transportation scheme are time and distance, the quality of the service (crowded buses, availability of bus monitors and backup buses, number of stops and the extent of effort to pick up students near their homes), and student density.[6] They state that it is impossible to obtain precise cost figures until an actual plan is specified. However, any such plan clearly would fall within the range of per pupil costs of existing within-district transportation schemes.[7] Indeed interdistrict bus routes might be shorter and more rational if they crossed district lines and conformed to area travel patterns.

Professors Colton, Levine, and Eubanks further suggests that there are substantial cost savings to be obtained from interdistrict transfers. Among these are better use of facilities by all districts because they might be able to fill currently empty classrooms with students from other districts. This would be particularly likely to help those suburban districts currently experiencing a rapid decline in enrollment and facing the prospect of closing relatively new physical plants.[8] If the State of Missouri makes provision for compensation comparable to that provided by Wisconsin, the districts facing declining enrollments could benefit significantly from revenue gains which would balance the losses due to declining enrollments they experience in per capita State aid.[9]

Professors Colton, Levine, and Eubanks point out that if 5,000 students from the city transferred to the Kansas City suburbs and 5,000 from the suburbs transferred into the central cities, racial isolation would be substantially reduced. For example, in the Kansas City area, such a transfer might reduce racial isolation from 65 percent in 1978—79 to 35 or 40 percent. At the same time, this would reduce racial isolation in the suburbs by increasing the proportion of black students from 2.0 percent (in the 1976–77 school year) to 6.9 percent.[10] The actual change that might be achieved in either St. Louis or Kansas City would depend upon the plan utilized and the distribution of students.

Another method for achieving desegregation is the creation of magnet schools. Long before the World War II, Boston Latin Grammar School, New York's Bronx High School of Science, High School of Music and Art, and Performing Arts High School were established to provide specialized programs on districtwide bases. Magnet schools are supposed to offer programs so distinctive and unique that they attract students from their neighborhood schools on a voluntary basis. When used as part of a desegregation strategy, they admit students so as to reduce

[4] David L. Colton, Daniel U. Levine and Eugene E. Eubanks, *Financial Aspects of Interdistrict Approaches to School Desegregation in Metropolitan St. Louis and Metropolitan Kansas City* (St. Louis: Center for the Study of Law in Education, Washington University, St. Louis, July 1979), (hereafter cited as *Colton and others*), tables 6 and 8.

[5] Data derived from: U.S., Department of Health, Education and Welfare, *Directory of Elementary and Secondary School Districts, and Schools in Selected Districts: School Year 1976-1977* (n.d.), 884-948, 606-07, 593-94; and U.S., Department of Health, Education and Welfare, Office for Civil Rights, *Directory of Public Elementary and Secondary Schools in Selected Districts, Fall 1972* (1974), pp. 472, 483, 746-86. It should be noted that the sharp decline in white enrollment in the Kansas City school district preceded implementation of a desegregation plan resulting from a finding of a Title VI violation.

[6] *Colton and others*, pp. 53–58.

[7] Ibid., pp. 60; 102.

[8] Ibid., pp. 39–47.

[9] Ibid., p. 43.

[10] Ibid., p. 106.

Table 5–1
Metropolitan St. Louis Transportation Data, By District, 1976–77

District	Number Transported	Per cent Transported	Cost Per Mile	Cost Per Student
Affton	3048	83	$1.07	$68.32
Bayless	1830	72	.94	39.59
Ferguson	8684	41	1.18	86.70
Hazelwood	13957	62	.86	69.60
Jennings	688	17	1.44	49.40
Kirkwood	2590	36	1.32	93.89
Ladue	2808	42	.49	81.57
Lindbergh	9090	87	1.02	76.43
Maplewood	1078	38	1.23	41.26
Mehlville	10512	87	.96	62.36
Normandy	4731	54	1.49	67.25
Parkway	17034	68	.81	58.87
Pattonville	9179	87	.81	54.47
Ritenour	6813	59	1.50	68.76
Riverview Gardens	4571	51	.92	62.31
Rockwood	7740	78	.69	90.56
Special District	6545	83	.70	431.14
St. Louis	11670	12	1.94	234.29
University City	1016	13	1.26	82.15
Valley Park	886	56	1.14	74.66
Webster Groves	968	18	.94	87.71
Wellston	453	30	1.54	48.23

Derived from: Department of Transportation, Missouri Department of Elementary and Secondary Education; St. Louis County Public Schools. *26th Annual Report* (1977).
Sources: David L. Colton, Daniel U. Levine and Eugene E. Eubanks, *Financial Aspects of Interdistrict Approaches to School Desegregation in Metropolitan St. Louis and Metropolitan Kansas City* (St. Louis, 1979)

Table 5–2
School Transportation Data for Selected Districts: Missouri Portion of Kansas City SMSA

District	Total Pupils 1976–77	Total Pupils Transported 1976–77	Per cent of Pupils Transported 1976–77	Total Allowable Cost of Pupils Transported 1976–77	Cost Per Pupil Transported 1976–77
Kansas City	50,447	12,245	24.3	$1,957,722	$159.88
Independence	15,725	12,015	76.4	443,848	36.94
Raytown	13,150	11,604	88.2	528,635	45.56
Hickman Mills	13,828	11,150	80.6	681,403	61.11
Grandview	6,946	4,770	68.7	273,604	57.36
Lee's Summit	7,078	5,684	80.3	435,196	76.57
Center	4,709	2,776	60.0	170,615	61.46
Fort Osage	6,015	5,148	85.6	437,659	81.02
Blue Springs	7,306	6,867	94.0	516,800	75.26
Grain Valley	713	610	85.6	47,669	78.15
Lone Jack	362	333	92.0	34,804	104.52
Oak Grove	1,501	993	66.2	94,468	95.13
North Kansas City	21,764	13,811	63.5	839,190	60.81
Liberty	4,321	3,057	70.7	230,504	75.40
Excelsior Springs	3,966	2,494	62.9	220,253	88.31
Platte County	1,550	1,162	75.0	101,820	87.62
Park Hill	7,660	7,119	93.7	468,949	65.87
Belton	5,142	3,307	64.3	202,773	63.32
Raymore-Peculiar	2,486	1,999	80.4	209,695	104.90
Harrisonville	2,248	1,545	68.7	168,269	108.91
Total	176,857	108,689			

Derived from: Department of Pupil Transportation, Missouri Department of Elementary and Secondary Education.
Sources: David L. Colton, Daniel U. Levine and Eugene E. Eubanks, *Financial Aspects of Interdistrict Approaches to School Desegregation in Metropolitan St. Louis and Metropolitan Kansas City* (St. Louis, 1979)

racial isolation in both the "home" school and the "magnet" school.[11] Both St. Louis and Kansas City have established such schools as part of their within district efforts to remedy segregation. In St. Louis there are three magnet high schools—the Academy of Mathematics and Science, the Business and Office High School, the Visual and Performing Arts High School— and eight magnet elementary schools—an investigative learning center, a foreign language experience school, two academics of basic education, a visual and performing arts school, an individually guided education school, an action learning and career exploration school, and a computer managed learning school.[12] In Kansas City there are two magnet high schools—an individualized learning school and a business academy, several full-day kindergarten/first grade programs, and two elementary magnet programs—one in basic and applied skills and another for science/mathematics.[13]

Professors Colton, Levine and Eubanks, suggest several types of magnet schools would be possible in the St. Louis and Kansas City metropolitan areas. In addition to the existing magnet schools in St. Louis, they suggest an aero-space and airlines services school near Lambert Field, a retail services school near Northwest Plaza, a governmental service school near the County Government Center in Clayton, a health services school near the county hospital in Clayton, and a school of the arts in the University City loop area. For Kansas City, the consultants suggest at the primary level, programs in environmental education at Swope Park; in economic and career education in the Bannister Road industrial area or the Plaza; programs in science education, social studies education at a revitalized Union Station; programs in performing and creative arts in the UMKC/Nelson Galley area; and programs in urban studies. At the secondary level they recommend a performing arts high school located near UMKC, a health professional high school located near Hospital Hill, a physical education careers high school located near the Jackson County Sports Complex, a law and public administration high school located near downtown Kansas City, a transportation high school near the junction of I-70 and I-435 and an applied technology high school.[14]

The consultants point out that:

> Magnet high schools generally require a sizeable population base and school districts in the Kansas City metropolitan area-including the Kansas City School District—are too small to support a variety of secondary magnet schools or programs within their own borders. It is for this reason that regional cooperation is required if magnet approaches are to be used to improve educational opportunities for high school students in the metropolitan area.[15]

They suggest such schools could be part-time programs, with students attending their neighborhood high school for half of each school day, while obtaining the benefits of a specialized program for the remaining hours.[16]

Commenting on the St. Louis experience, the consultants state that:

> The experience has shown that it is possible to *modestly* [emphasis added] reduce racial isolation through use of magnet schools by offering specialized opportunities to students willing to leave their neighborhood school.[17]

They acknowledge that magnet schools have not been free of problems. They point to "vagaries of Federal funding, arbitrary ceilings, short term funding, inexplicable budget changes and constantly changing rules" which have plagued the St. Louis program. They cite "difficulties in managing transportation for students, difficulties in providing accurate and timely information to families and tensions between magnet school personnel and personnel responsible for the conventional school programs."[18] The St. Louis school district's superintendent points out that such programs ranged in cost from $88,000 to $178,000 per school in 1978-79. But, he notes, this is a small sum when set against the cost of running schools without magnet programs where the cost, for example, of Beaumont High School was $4,771,941 in 1978-79.[19]

Charles Glenn, Massachusetts State Equal Educational Opportunity Director, commented to *Newsweek* that magnet programs may encourage a "two-tiered educational system, skimming off top students and teachers who work in elite havens, while the

[11] Ibid., p. 66.
[12] Ibid., pp. 67-69.
[13] Robert Wheeler, Superintendent of Schools, Kansas City, Missouri, School District, letter to chairperson, Missouri Advisory Committee, Apr. 1, 1980.
[14] *Colton and others*, pp. 72-73 and 109-11.
[15] Ibid., p. 112
[16] Ibid.
[17] Ibid., p. 70.
[18] Ibid., pp. 70-71.
[19] Robert Wentz, Superintendent of Schools, St. Louis City School District, letter to Chairperson, Missouri Advisory Committee, Apr. 9, 1980.

rest of the public schools decay. 'Magnet schools benefit liberal whites and middle-class blacks, and what's left behind is the dregs.' "[20] Moreover, some critics contend that magnet programs are mere "cosmetic subterfuges" to avoid full desegregation.[21]

In Boston and Milwaukee interdistrict transportation of students and magnet programs owed part of their success, Professors Colton, Levine and Eubanks state, to the fact that they were voluntary parts of intradistrict remedies ordered by the courts. But, they point out, part of the success may also have been that State education officials in Massachusetts and Wisconsin "have been national leaders in initiating and supporting plans for reducing racial isolation among students in metropolitan areas in those two States."[22] They point out that Wisconsin and Massachusetts State governments have been active in financing metropolitan solutions and setting targets for the reduction of racial isolation throughout their States.[23] But the prevailing attitude of State boards of education is evident from the comment to the National Project and Task Force on Desegregation Strategies by the National Association of State Boards of Education, "Most of the representatives from the participating States believe that interdistrict desegregation is a necessary evil, like busing. . . ."[24] Nonetheless, the Association of State Boards of Education called for States to "assume responsibility for the means of implementing desegregation action plans. . . ." It called upon State legislatures to "provide fiscal incentives to local school districts so that they can properly implement desegregation plans."[25] Even such limited initiatives, the Missouri Advisory Committee reported in January 1977, have not been taken by the Missouri Department of Elementary and Secondary Education. Although the Advisory Committee noted that the State Board of Education and the Department of Elementary and Secondary Education might have the power to compel a metropolitan remedy this was denied by the State department.[26]

In February 1979, the Missouri State Board of Education issued its "Statement of the Missouri State Board of Education on Equal Educational Opportunity." This recognized the existence of racial imbalance in school districts and stated that "creative efforts by individual school districts are essential and can do much to reduce racial isolation of students." It also noted that school districts can act voluntarily to achieve interdistrict remedies.[27] In its report on desegregation of the schools in Greater Kansas City, this Advisory Committee noted that the Spainhower Commission on school reorganization had found that "school districts are purely creatures of the State and as such have no inherent powers," and that the Missouri General Assembly has vested the responsibility for carrying out the education policies of the State in the State Board of Education, its commissioner and its department. But the Commissioner of Elementary and Secondary Education took a more restrictive view arguing that "the department does not control day-to-day operations or policies" of school districts.[28]

Unlike other States such as Nebraska where the State board of education also takes a restricted view of its powers, the Missouri department has not even added compliance with multicultural education standards to the classification process. The Missouri Department of Elementary and Secondary Education currently classifies school districts to evaluate their educational qualities based on such items as class size and curriculum.[29] However, it does not now evaluate the degree to which the school districts provide a desegregated learning environment and provide multicultual components in the curriculum. By contrast, the National Council for Accrediting of Teacher Education requires that the schools it accredits (colleges of education) make provision for training teachers so that they can implement multicultural education programs. Some educators would argue that these are as important a part of assessing educational quality as the items currently used by the department and should be included.[30]

In this chapter we have outlined two approaches to interdistrict cooperation—magnet schools and interdistrict transfers. These should not be construed as "either-or" proposals. Nor are these the only

[20] *Newsweek*, Jan. 7, 1980, p. 68.
[21] Ibid.
[22] *Colton and others*, p. 13.
[23] Ibid., p. 14.
[24] National Association of State Boards of Education, *Desegregation: Problems, Successes and Next Steps* (New Orleans, Nov. 16, 1978), p. 3.
[25] Ibid., p. 6.
[26] Kansas and Missouri Advisory Committees, *Crisis And Opportunity: Education in Greater Kansas City* (January 1977), pp. 82–83.
[27] Missouri State Board of Education, "Statement of the Missouri State Board of Education on Equal Education Opportunity" (February 1979), cited in *Colton and others*, chapter 5, Fn 32.
[28] Kansas and Missouri Advisory Committees, *Crisis and Opportunity: Education in Greater Kansas City* (January 1977), pp. 82–83.
[29] *Kansas City Times*, Apr. 21, 1980.
[30] Dean Eugene Eubanks and Prof. Daniel Levine, telephone interview, Apr. 22, 1980.

options. We should not be limited by our present lack of better vision. The best strategy undoubtedly is one which contains a mix of options.

Pending the outcome of litigation involving Kansas City and development of a remedy in St. Louis, such approaches can be pursued on a voluntary basis. Voluntary approaches may not eradicate racial isolation, but they can stem its spread and can provide opportunities for reduction of racial isolation where it now exists. We do not know whether the natural limits of voluntary efforts will be found at 5 percent, or 25 percent or 50 percent of the youngsters who are presently racially isolated. Change is never without cost. But to what extent are the real obstacles to metropolitan remedies for central city school district segregation, organizational inertia, racial prejudice, lack of a particular incentive such as an impending court order, limited imagination and the press of other problems which preempt attention? These barriers can and should be overcome.

6. Findings and Recommendations

In light of the foregoing, the Advisory Committee makes the following findings and recommendations.

Finding 1: The Advisory Committee notes that the Kansas City School District has been found in noncompliance with Title VI of the 1964 Civil Rights Act by an Administrative Law Judge of the Department of Health, Education and Welfare and that the St. Louis School District admitted that it is segregated in its 1975 *Liddell* consent decree. Both districts have undertaken measures designed to reduce racial isolation pursuant to agreements with HEW or court order.

Recommendation 1: The Advisory Committee urges that both districts pursue within district remedies to the maximum extent feasible and begin to develop further plans to achieve even more desegregation, whether or not a metropolitan remedy is possible.

Finding 2: The Advisory Committee notes that both St. Louis and Kansas City school districts have argued that State action and/or action by surrounding districts and/or Federal action have contributed to segregation within the central city districts. It notes the pending cross-claim litigation efforts of the Kansas City, Missouri, School District to obtain a remedy based on actions of the Missouri Department of Elementary and Secondary Education that allegedly promoted segregation in the district. It further notes the efforts by parent plaintiffs in Kansas City and the interest expressed by U.S. Department of Justice in seeking desegregation of the schools. The St. Louis school district attempted to pursue a metropolitan remedy, without success.

Recommendation 2: The Advisory Committee urges the Kansas City, Missouri, School District to pursue its cross-claim. The Committee urges that the St. Louis district seek a metropolitan remedy either through cooperation of suburban districts or by further litigation.

Recommendation 2a: The Advisory Committee urges the U.S. Commission on Civil Rights to encourage U.S. Department of Justice intervention in support of the plaintiffs in the Kansas City metropolitan school desegregation case. It believes the Department of Justice can bring the additional resources to bear that are necessary to establish an interdistrict violation, in light of *Milliken v. Bradley* and decisions by the Court of Appeals for the Eighth Circuit.

Finding 3: The Advisory Committee notes that the Missouri Department of Elementary and Secondary Education has not been active in pursuing desegregation within the State nor has it supported implementation of an interdistict transfer plan.

Recommendation 3: The Advisory Committee urges the State Board of Education through the Missouri Department of Elementary and Secondary Education to review school laws and regulations in order to identify any legal impediments to interdistrict desegregation efforts. Once these impediments are identified, recommendations for their alteration should be made and implemented. In particular, the State Board of Education should encourage and support bills introduced in future sessions of the General Assembly which provide for implementation of an interdistrict transfer plan.

Finding 4: The Advisory Committee notes that a variety of voluntary metropolitan remedies have been implemented in other States, among them incentives for interdistrict transfers. Legislation to

implement similar incentives has been introduced in the General Assembly.

Recommendation 4: The Advisory Committee urges the General Assembly to appoint a joint committee to study and consider an interdistrict transfer plan.

Finding 5: The Advisory Committee notes that State and Federal actions have been cited as contributing directly or indirectly to interdistrict segregation.

Recommendation 5: The Advisory Committee urges the General Assembly to establish a commission composed of school executives, experts in school desegregation and representatives of not-for-profit organizations interested in education and/or civil rights to conduct hearings, collect information and consider recommendations for State action supporting interdistrict and intradistrict approaches to the reduction of racial isolation. The commission's investigations should focus not only on education but also on housing patterns and actions by governments which affect the incidence of school racial isolation.

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