St. Louis: Desegregation and School Choice in the Land of Dred Scott

William H. Freivogel

St. Louis's voluntary school desegregation program was conceived and implemented during the school desegregation era of the late twentieth century. It survives as an example of the new era of twenty-first-century school choice.

The St. Louis desegregation plan is notable because it revolved around an interdistrict busing arrangement, which was one of the most innovative approaches to desegregation in the nation. In addition, the St. Louis desegregation plan was the most expensive desegregation program in the country, costing more than $1.7 billion between its inception in 1983 and the end of court supervision in 1999.[1] In recent years, St. Louis has incorporated key elements of the next generation of school reform, including expanded school choice and accountability. The St. Louis desegregation plan has been the largest school choice program in the nation, with 13,000 to 15,000 students crossing boundary lines between the city and suburb each year. It permits parents of children in failing schools to send their children to more successful public schools. The St. Louis desegregation plan reconstitutes failing schools with new principals and educational programs—elements of the education reform program supported by President George W. Bush and Senator Edward M. Kennedy (D-Mass.)

As a notable example of the past century's noble attempt to desegregate schools and as an example of this century's education reform model, the St. Louis desegregation plan has lessons to offer the rest of the nation. Neither school desegregation nor accountability magically creates a level playing field for African-American children. But an entire generation of students—black and white—has had an

This paper was sponsored by The Spencer Foundation.

opportunity for a high-quality education in an integrated setting. African-American students, who took advantage of this opportunity, gained significant, if not dramatic, improvements in achievement, graduation rates, and college attendance.

For two centuries, Missouri has been a stage on which the tragedy and triumph of race have played out for the whole nation. The Missouri Compromise held off the Civil War. The *Dred Scott* case[2] helped precipitate it. A Jefferson City inn's refusal to serve blacks was one of the legal cases that resulted in *Plessy*'s[3] separate but equal doctrine. Lloyd Gaines of St. Louis won one of the landmark desegregation lawsuits that preceded *Brown*.[4] After the University of Missouri built a separate "law school"; however, Gaines mysteriously disappeared.[5] The Supreme Court decision that outlawed enforcement of racial real estate covenants, *Shelley v. Kraemer*,[6] arose in St. Louis, a few blocks from where the school desegregation case later began. When the Court upheld a Reconstruction statute as a bar to housing discrimination in *Jones v. Mayer*,[7] it was again a St. Louis case. And, when the Court brought down the curtain on court-ordered school desegregation in the 1995 case of *Missouri v. Jenkins*,[8] the dispute it chose was from Kansas City, with the deciding vote cast by Justice Clarence Thomas, who got his legal training in the Missouri attorney general's office.[9]

Missouri had segregated schools for 115 years, much longer than most southern states.[10] For much of that time, blacks weren't just segregated; the act of teaching them was itself illegal. In 1847, the Missouri Legislature provided that, "no persons shall keep or teach any school for the instruction of mulattos in reading or writing." A few brave teachers took skiffs out into the Mississippi River to evade the law. Missouri prohibited slavery in 1865, but the state constitution explicitly mandated separate schools for "white and colored children" until 1976—a shocking twenty-two years after *Brown*.[11]

The head of the St. Louis Board of Education at the time of *Brown* was Daniel Schlafly, an urbane, progressive lawyer never found without his trademark pompadour. Schlafly was a hero for defeating the Democratic ward bosses in the 1940s and reforming city schools. Until his dying day, Schlafly was proud that he had been prepared for *Brown*, unlike many other school boards.[12] The board hired a desegregation consultant in 1947 and had a plan ready in 1954. The board unanimously adopted the plan one week after *Brown* was announced.[13] The U.S. Civil Rights Commission later cited St. Louis as one of the best examples of compliance with *Brown*, calling the plan "solidly conceived and brilliantly carried off."[14]

However, little changed for African Americans. The restrictive real estate covenants outlawed a few years earlier in *Shelley* had confined most blacks to a small part of the city. The school board could have drawn neighborhood school boundaries in ways that desegregated the all-black schools. But it did not. The board also permitted a "continuation transfer," allowing black and white students to stay in their schools until graduation. Many did. Another policy, "intact busing," transferred whole classes from overcrowded black schools to white schools with vacant rooms. But the bussed students, most of whom were black, were kept separate from the students of the home school. They even had separate lunch hours. As a result of all these policies, the two traditionally black high schools remained almost all black. Of 28 all-black schools in 1954, 26 remained almost all-black six years later. When the district opened 10 more schools in 1964 to address overcrowding in mostly black North St. Louis, all of the schools were almost all African American.[15]

This was the legal backdrop of the St. Louis school desegregation case. Ironically, the case that resulted in one of the most ambitious busing plans in the nation grew out of a dispute in which an African-American mother simply wanted her children to go to the neighborhood school. Minnie Liddell, who had four children, was happy with the Yeatman School, which her son Craton attended. Middle-class and blue-collar neighbors attended, and the principal was terrific. Just before the 1971–72 school year, she was informed that Yeatman was overcrowded and Craton would be bused to a bombed-out neighborhood some distance away. Liddell organized a citizens' protest, and when the school board wouldn't listen, she began a boycott. It worked. Craton was assigned to a better school. But, Liddell had also learned a lesson about standing up to the board. By the following winter she had a lawyer and had filed suit.[16]

The suit languished for years until the NAACP intervened. Finally, it came to trial before U.S. District Judge James H. Meredith, a senior judge known to make racially tinged remarks in chambers. Judge Meredith initially ruled that the 1954 Schlafly plan had sufficiently desegregated the schools. But, on appeal, the 8th U.S. Circuit Court of Appeals decided that the unmistakable intent and effect of the school board's 1954 "desegregation" plan, the intact busing program, and the placement of new schools in all-black neighborhoods had been to maintain the status quo of segregated schools.[17] It was the 8th Circuit Court of Appeals that first mentioned the possibility of an interdistrict solution to the problem of segregation of the St. Louis schools. Judge Gerald W.

Heaney, a former labor lawyer from Duluth and appointee of President Lyndon Johnson, took the leadership in writing the federal appeals court decisions in the St. Louis case. Judge Heaney later remarked that the anti-busing movement was "premised on faulty reasoning and inconclusive facts." He noted that the school bus had been the instrument of segregation in many parts of the country. He also pointed out that 55 percent of the school children were bused to school each day, with less than 7 percent bused for desegregation reasons.[18]

When the case returned to Judge Meredith, he ordered a desegregation program within the boundaries of the City of St. Louis. But the court realized that because of declining white enrollment,[19] the plan would leave about 30,000 African-American students in all-black schools—approximately two-thirds of the black students.[20] For this reason, the judge ordered the state and the school board to explore other possible ways of reducing segregation, including the possibility of an interdistrict plan that would transfer students between the city and suburbs.[21] Paragraph 12(a) of the court's decree required the development of a "voluntary, cooperative plan of pupil exchanges" between the city and suburban schools. Paragraph 12(c) ordered the state and the St. Louis Board of Education to submit a "suggested plan of interdistrict school desegregation necessary to eradicate the remaining vestiges of government-imposed school segregation in the City of St. Louis and St. Louis County."[22] This order provided the impetus for what became the voluntary interdistrict transfer program.

In 1981, U.S. District Judge William Hungate took over the case after Meredith's death. Hungate, a former member of Congress from Hannibal, Missouri, had a folksy, homespun manner and a politician's sense of how to get things done. While in Congress he had voted against using federal money to pay for busing to desegregate schools. But, now that he was on the federal bench, he took the Constitution as his guide. Judge Hungate appointed Edward T. Foote, dean of the Washington University Law School, as head of a committee to draft a plan for area-wide desegregation. By this time, the NAACP had filed suit against twenty-three suburban school districts in St. Louis County alleging an interdistrict violation of the Constitution. The evidence of state and suburban involvement in the segregation of the schools was thought to be strong, in that many suburban districts had followed state policy by busing their black students into the city before 1954. This suburban culpability is important because the Supreme Court had ruled in the 1974 decision of *Milliken v. Bradley* that desegregation would stop at city

limits unless state or local school districts could be shown to have engaged in prior acts that resulted in segregation across district lines.[23]

Foote proposed a plan under which suburban districts would voluntarily begin admitting black students from the city. The state, which had been found to be the primary constitutional wrongdoer, was to pay the suburban districts the incremental cost of educating the transfer students and any transportation costs. Any suburban districts that signed on would eventually be removed as defendants in the NAACP's interdistrict suit.[24] The court adopted Foote's plan, but only four districts signed on; the rest balked because they thought the court was not offering strong enough assurances against further litigation. Judge Hungate then added a stick to the carrot. If he found interdistrict liability—that suburban districts were complicit in segregation—then all of the defendants might be ordered into a single metropolitan school district that included the city. That panicked the suburbanites, who, for good reason, liked their small school districts. It also panicked suburban officials who liked their little principalities.

By 1982, another Washington University law professor, D. Bruce La Pierre, had taken over as special master and was conducting shuttle diplomacy among the various parties, attempting to turn Foote's concept into a plan. La Pierre, a liberal who wore a work shirt to class and had his hair tied in a ponytail, proved an effective negotiator. The trial date for the interdistrict case was postponed several times as La Pierre neared an agreement. The threat of a court-ordered consolidation of all of the school districts, together with financial incentives, led to a final agreement in the spring of 1983. Willian L. Taylor, the veteran NAACP lawyer from Washington, D.C., helped generate the settlement by telling La Pierre that he could offer the suburbs the inducement that the plaintiffs would not pursue a consolidation remedy if the suburban districts would support a viable interdistrict plan.[25]

The final plan had five major components. One was the interdistrict transfer program that required mostly white suburban districts to either increase the number of African-American students by fifteen percentage points, or to reach and maintain the plan goal of a student population that was 25 percent black. A student would apply for the district he or she desired. The districts could screen the pupils for discipline problems and identify children needing special education, but could not turn down a student on academic grounds.[26] Lawyers involved in negotiating the settlement say the suburban districts would have balked at any higher limit; in fact, most never reached the 25 percent level.

The second element of the program was magnet schools in the city that were to attract racially balanced student bodies that included white students from the suburbs. After a decade of slow growth, the number of white students from the suburbs traveling to schools in the city climbed above 1,100, reaching a peak of 1,478 in 1997.

The third element was the so-called quality of education component, to make capital improvements in city schoolhouses and to improve the education of those students left behind in all-black schools—a number expected to be from 10,000 to 15,000 students.

The fourth element, the finances, was the key to making the first three work. It required the state to pay all transportation costs and to pay both the home and host district for each transfer student, substantially increasing the state's cost for educating each student. The state paid the host district in the suburbs a fee for each student equal to the per-pupil cost to educate a student in that district. This meant that some of the wealthiest and highest achieving school districts, such as Ladue and Clayton in the prosperous west county region, received around $10,000 per pupil, while suburban districts that spent less on education, such as Bayless in the less prosperous south county area, received $3,000 to $4,000. The financial incentives were particularly important in icing the deal; they were especially attractive because they came at a time when suburban schools had vacant classrooms. Where new classrooms were needed for the transfer students, the state paid capital costs. The state also made payments to the home district, the city, equal to one-half of the normal state aid based on the complicated foundation formula for determining the amount of state aid each district would receive. This "shadow" payment for students who actually were not attending the city schools was to be used to fund the quality of education programs for the students left behind.

The fifth, and final element of the plan was to give each suburban district a five-year stay of the interdistrict case and to provide a process for them to eventually obtain a final judgment and dismissal from the original court action. State funding was mandatory. The state was required to pay for the voluntary interdistrict program as part of the remedy of the intradistrict case; the theory was that the state's funding of the voluntary agreement was required to desegregate the city schools, for which the state was the main wrongdoer.

The federal courts adopted the agreement with some changes, and the interdistrict desegregation plan went into effect in the 1983–84 school year.[27]

Then and now, the interdistrict plan was one of the most unique approaches to desegregation in the country. Only a few other cities implemented voluntary interdistrict student transfer programs. Indianapolis, Wilmington, Louisville, and Little Rock had court-ordered interdistrict plans. Hartford, Boston, Rochester, and a handful of other cities have much smaller voluntary interdistrict transfers.[28] Bruce La Pierre says that St. Louis was "the only city in the United States that has resolved inter-district desegregation issues through a process of compromise and consent."[29] But, this compromise that achieved the consent of the parties was not the product of consensus in the public arena. It was the creation of a savvy trial judge, William Hungate; an especially committed appellate judge, Gerald Heaney; a well-prepared legal team headed by William Taylor; and the persuasive powers of the carrot and stick wielded by special master Bruce La Pierre. Just how little consensus there was behind the plan became evident over the next several months when politicians dragged the issue into the political arena.

POLITICAL OPPOSITION

For nearly twenty years, the attorneys general of Missouri waged a legal and political campaign to end the desegregation plan in St. Louis. It was a bipartisan effort that began under Republican attorneys general John D. Ashcroft and William Webster and continued under Democrat Jay Nixon. All three men used their opposition to the desegregation plan—and particularly the busing element—to advance their political careers.

By the time the voluntary plan was approved, Missouri Attorney General Ashcroft had already been to the U.S. Supreme Court several times seeking to end school desegregation in St. Louis. How much he opposed the plan is illustrated by a vignette from the summer of 1981. The court had appointed Susan Uchitelle, a state education official, to be interim director of the committee coordinating the voluntary plan. Uchitelle got a telephone call from a state education official conveying a threat from Ashcroft himself that she would never get another state job or appointment if she agreed to serve as interim coordinator. She went ahead and continued to operate the program until 1999.[30]

Judge Hungate threatened to hold the state in contempt for its "continual delay and failure to comply" with court orders. Hungate said, "the state has, as a matter of deliberate policy, decided to defy the authority of this Court."[31]

After the announcement of the voluntary settlement and interdistrict plan, Ashcroft stepped up his opposition. He challenged both the court's authority to approve the voluntary interdistrict transfer of students and the requirement that the state pay the cost of the transfers. Ashcroft argued that the court could not approve the interdistrict transfer of students without finding an interdistrict violation. Judge Heaney and the 8th U.S. Circuit Court of Appeals rejected the argument not once, but four times. The appeals court explained that it could order the state to pay for the transfers to consenting suburbs as part of its obligation to remedy segregation against St. Louis city students.

Ashcroft lost in his attempt to stop the buses, but the 1984 governor's campaign had already begun and school desegregation was soon the main issue. He was not the first person to bring desegregation into the campaign. Rather, it was St. Louis County Supervisor Gene McNary, Ashcroft's tough primary opponent.

McNary claimed that Ashcroft had "just sort of rolled over" on the desegregation case.[32] He suggested that Ashcroft should have provoked a crisis by having the state held in contempt of court. It didn't take long for Ashcroft to fire back, and when he did, the reply was devastating. Ashcroft called the desegregation plan illegal and immoral and began bragging about Judge Hungate's threat to hold him in contempt.[33]

Ashcroft's polling showed McNary gaining and desegregation a hot-button issue. Don Sipple, who worked for the Washington political consulting firm of Bailey, Deardourff & Associates, came to St. Louis to write the "McFlip-Flop" commercial, accusing McNary of changing his stand on desegregation.[34] The campaign made two versions, one for St. Louis and one for outstate areas. In the days immediately before the election, Ashcroft's campaign also hired a plane for leading anti-busing leaders to fly around the state holding news conferences on how McNary was soft on busing. Ashcroft also sent a "Priority Gram" to residents of the conservative Springfield area, maintaining that McNary had approved the court settlement that required the state to pay for desegregation costs.[35]

Ashcroft won big, and both his and McNary's consultants said the McFlip-Flop commercial was a major reason. In the general election, Ashcroft again relied on the desegregation case to defeat Democratic Lieutenant Governor Kenneth Rothman, who criticized Ashcroft for setting the races against one another.

Meanwhile, in court, Ashcroft was contesting the attorney's fees sought by Liddell. He argued that Liddell's lawyers had ridden the "coat-

tails" of other plaintiffs' lawyers. That use of words allowed Judge Hungate to tell Ashcroft what he thought of his recent political demagoguery. In a footnote, the judge wrote the definition of "'Coattail'—less a legal and more a political term meaning to win elective office by sharing another's popularity." He added that, "one might argue that the counsel for the State voluntarily rode Liddell's bus to political prominence. . . . If it were not for the State of Missouri and its feckless appeals, perhaps none of us would be here at this time."

The Plan Is Implemented

The interdistrict transfer program made rapid and remarkable progress in desegregating the children of St. Louis. At the time the agreement was put into effect, 30,000 black students in the city were in all-black schools. Within four years, the number had shrunk to 24,000, largely because of the transfer of growing numbers of students from the city to the suburbs. The number of students grew from 2,294 the first year, to 4,870 the second, to 6,877 the third, to 9,300 students the fourth, to 11,800 the fifth. By the late 1990s, the number had leveled out at 13,000-plus, a little less than the 15,000 originally anticipated, but still a potent force for desegregation. By 1995, this group of 13,000 students was a little less than one-third of the 44,163 black students in the city receiving public education. Other city students attending magnet schools and naturally integrated schools were also in desegregated classrooms. The bottom line was that as a result of the desegregation agreement, 59 percent of the city's African-American students were in desegregated schools in 1995, as contrasted to 18 percent in 1980.[36]

The transfer program had benefits in the suburbs as well. Whites, who had attended racially isolated schools in the suburbs, found themselves in schools with blacks for the first time in their lives. By the end of the fourth year of the program, ten of the sixteen suburban school districts that had minority populations of less than 25 percent before the agreement had received final judgments because they had increased the percentage of African-American students by the required fifteen percentage points. Three other suburban districts were on the verge of meeting this goal.[37] Even more striking, before the agreement nine of the suburban districts had black populations hovering around 1 percent. The 56,000 students who attended schools in those nine districts would have been in racially isolated settings, but for the transfer pro-

gram. Many of the 117 suburban schools that accepted transfer students had been lily-white before the agreement. After four years, only seven of the 117 had a minority enrollment of less than 7 percent.[38]

The magnet program, which was supposed to attract white suburban children to city schools, got off to a much slower start and never had the desegregative effect that had been hoped for at the time of the agreement. After five years, only 626 white suburban residents attended city magnets, far below the 2,500 goal.[39] The Court of Appeals noted this with great concern. "Unless these goals are met, the burden of integrating the St. Louis schools will have been primarily borne by black students. This cannot be tolerated."[40] But, it was tolerated. The court set a goal of 6,000, but the program never got above about 1,500. The Voluntary Interdistrict Coordinating Council, which oversaw the transfer program, developed a recruiting program and sent slick brochures to the homes of suburban parents. But the suburbs-to-city transfer program never took root. White students who joined the transfer program withdrew in subsequent years at high rates. During the early years of the program, the withdrawal rate was 41 percent, compared with a 14 percent rate for black students transferring from the city to the suburbs. Many of the white students in the suburbs-to-city transfer program cited the problems with the long bus ride.[41]

Another reason for the limited success was that the magnet programs offered in the city schools were often of poorer quality than the programs available to suburban students at the home schools.[42] For example, the quality of performing arts and math and science magnets was significantly below that of many suburban programs. Susan Uchitelle, executive director of the Voluntary Interdistrict Coordinating Council that ran the transfer program, faults the St. Louis school system for "not providing the education programs that they promised." Magnet schools that offered early childhood education were popular, but the St. Louis Board of Education did not provide enough high-quality magnets to keep suburban students enrolled. High-performing Metro High School is an outstanding exception. One reason for the shortage of high-quality magnets early in the program, she said, was that "the state did everything that it could do to slow down the process of setting attractive new magnets. The state was masterful."[43]

The one other feature of the plan that was supposed to foster desegregation was a much-ignored goal of integrating teaching staffs. County districts were supposed to achieve a goal of 15.8 percent black teachers. By 1995, none of the suburban districts receiving transfer students had

come anywhere near its goal; all but one district had less than 10 percent black teachers, and most were 5 percent or less.[44]

ACHIEVEMENT

Aside from its unqualified success in desegregating the students of both the city and the suburbs, the transfer program has some glaring weaknesses. As with most desegregation plans, the busing burden falls mainly on the victims of discrimination, the African-American students. Most transfer students have to get out of bed before dawn to be waiting at their bus stop by 6 A.M. The bus rides to the suburbs can last more than an hour: about 68 percent of the transfer students made it to their suburban schools within an hour, but the remainder spent as much as eighty minutes on the bus.[45] Once the black students made it to the suburban schools, they sometimes felt the host students were not welcoming and that some teachers and administrators did not pay attention.[46] Students who stayed after school were sent home in taxicabs, which became a symbol of wasteful spending among suburban residents. In four of the more inhospitable suburban districts, more than 25 percent of the transfer students were disciplined. Even in the more welcoming districts, where discipline was not a problem, few of the transfer students were placed in gifted or advanced placement classes in high school. Back-to-school nights and teacher conferences attracted few parents from the city, partly because of the distance, partly because city parents generally have lower levels of participation in school events, and partly because parents felt unwelcome. Still, many schools, such as Kirkwood High School, tried to attract parents to parent–teacher conferences and set up a program under which black city students who had a late sporting event or other after-school activity would spend the night with a host family.[47]

The transfer program did not result in significant gains in academic tests in the elementary grades. The students in the city's twenty-five magnet schools performed better than the transfer students during grade school, according to a study of student performance from 1990–94 conducted for the court by Robert W. Lissitz, an education professor at the University of Maryland. But, in the high school grades, the transfer students steadily improved, while both the magnet and regular students in city schools leveled off. "The Transfer students, alone, show a consistent, continued increase in performance on Stanford Reading and Mathematics from 8th to 10th grades," Lissitz concluded.[48]

Part of the Lissitz report was based on a longitudinal study that followed individual students over a two-year period. He found that from 8th to 10th grade the transfer students had a significantly greater improvement in reading than the children in regular city high schools or magnet high schools. They also had greater improvement in math than the regular high school students. Both of these findings were statistically significant.[49] Magnet students still outperformed transfer students on some tests, but Lissitz noted that the magnet students scored considerably higher in the elementary grades and lost almost all of the advantage over transfer students by 10th grade.[50]

The most recent state testing data, released August 1, 2001, seem to bear out the higher performance of transfer students in the upper grades. The data show a large achievement gap of about twenty percentage points between black and white students statewide on the Missouri Assessment Program (MAP) test. The gap exists in the suburban schools, just as it does in the city schools. As a whole, however, African-American students in the suburban high schools and middle schools scored about 10 percentage points better in communications and math than the African-American students in regular city high schools and middle schools.[51]

The most significant evidence of the higher academic attainment among transfer students and magnet school students is graduation rates. A 1995 report by the city's business leaders concluded that African-American students in the transfer program and in the city's magnet schools were graduating at twice the rate of African-American students in city schools that were not magnets. The graduation rate for the magnet students was 52 percent; for the transfer students, 50 percent; for the all-black city students, 24 percent; and for students in other regular city high schools, an abysmal 16 percent.[52] The report concluded that part of the difference in graduation rates was due to the different levels of poverty in the different groups. The percentage of students whose families did not qualify for free or reduced-price lunches was 36 percent in the magnet group, 24 percent in the transfer group, 10 percent in integrated schools, and 6 percent in all-black city schools.[53] But, the report concluded that the most important factors leading to higher graduation rates were reliable attendance and high college-going rates among graduates of the host school. For example, the graduation rate was 65 percent for transfer students attending Clayton High School, a wealthy suburb where 95 percent of the host students attend college.[54]

A survey conducted by the Voluntary Interdistrict Coordinating Council also found that transfer students had substantially higher college-going rates than stay-at-home black students. A survey of 611 transfer students graduating in 1992–93 reported that 232 of 561 respondents were attending a four-year college and 157 a two-year junior college or technical school.[55] By contrast, only 27 percent of students in the city were graduating high school, with 27 percent of that graduating class going to four-year schools, 17 percent to two-year schools, and 52 percent to no schools. In other words, college-going rates for transfer students were substantially greater than for stay-at-home students.

The biggest failure of the 1983 agreement was the portion of the program that was supposed to improve the quality of education for the students left behind in all-black city schools. Taylor, the NAACP lawyer who represented African-American children in the desegregation case, has long cited this fact as his greatest disappointment.

There were some improvements in the all-black city schools. The student–teacher ratio was cut from about 30 to 1 before the plan to about 20 to 1. Computer rooms with brand new computers were set up in the all-black schools. Early education programs in the elementary grades were considered a success. Even these successes didn't always translate into improved instruction. Video cameras allowed some of the more advanced courses to be taught in one all-black high school and beamed to a television set in another. But these programs did not work effectively, in the absence of a teacher in the classroom. New computer labs often lacked proper supervision, leaving children guessing at the right answer until they finally hit on it by process of elimination. Computers often were not functioning and lacked the latest software. Expensive and innovative writing labs produced no improvement in writing tests. College prep courses were so underfunded and understaffed that they had fewer than half the students they were supposed to have ten years after they were set up. About 40 percent of the students in the college prep courses did not take either the ACT or SAT college entrance tests. Those who did take the tests scored extremely low; the ACT average in the college prep courses in the 1992–93 school year, for example, was 17.2, compared to a national average of 20.7.[56] Schools of emphasis, stressing a particular academic theme, were formed hastily and soon abandoned as failures. The district replaced them with a program called Project Courage. Project Courage was intended to foster self-esteem and teach students about drugs, AIDS, and sexual diseases.

But it was totally devoid of academic content. James D. Dixon II, director of the court-appointed Education Monitoring and Advisory Committee, said Project Courage was "intellectually bankrupt."[57] After Project Courage was eliminated as a failure in 1994, it was supposed to be replaced by a new program, but it was not.

Despite hundreds of millions spent on special programs, the curriculum in most all-black schools is not equal to that in most suburban school districts, according to Dixon. City schools teach fewer foreign languages, employ fewer trained counselors, offer fewer advanced courses in math and science, lack music programs, and have more antiquated science labs and smaller, more poorly staffed libraries. In short, despite the money spent on the quality of education in the all-black schools, neither the schoolhouses nor what was taught inside was equal to the suburban schools.

The weakness of the quality of education component of the desegregation plan showed up in test scores. The Stanford Achievement Test scores for 12th graders in all-black schools went down from 1990–95, sinking from 36.5 percent to 31.1; the national mean is 50.[58]

St. Louis public school administrators and teachers are extremely sensitive to the claim that their schools are inferior. They argue that the low test scores are partially the result of a brain drain, where the best students have gone to the suburban schools. Floyd Irons, former principal of all-black Vashon High School, said "When you are allowed to come in and screen the product, to skim the cream of the crop without replacing some of that cream back to the institution, you weaken it. And I think that's what desegregation has done. It has weakened . . . Vashon High School—academically, athletically and socially."[59]

Some of the strongest backers of the transfer program acknowledge that this creaming effect was a real one. Amy Stuart Wells and Robert Crain, who studied the program, say they learned of many instances when students who were considered "smart" were encouraged by educators, parents and community members to transfer while the "not as smart" students were often discouraged from transferring for fear it would be "too hard" for them. Also, based on their research, the students who stayed behind tended to have less active parents.[60] Still, it is worth noting that three-fourths of the transfer students were poor enough to qualify for free or reduced lunches.[61]

Just before the 1996 court hearing to determine if St. Louis had achieved unitary status, the state made an accounting of how the $1.3 billion spent on the entire St. Louis desegregation plan had been used.

It found that $439 million had been spent on programs to improve the quality of the all-black schools, roughly equal to the $435 million in tuition payments made to the suburban schools. Another $227 million was spent on transportation for the transfer program. Based on the results, the money spent on the transfer program had more demonstrable educational impact than the money that disappeared into the quality of education programs in the city schools. This finding refutes the oft-repeated criticism of the transfer program that greater educational gains could have been made by spending the transfer money on improving the city schools.

Uchitelle, the long-time executive director of the transfer program, acknowledges failures but believes that transfer students benefited in the long-run. "The greatest failure was that we didn't get teacher transfers," she said.

> Nor did suburban districts achieve the 25 percent goal or pay enough attention to the needs of the transfer program. A lot more data should have been collected on the program. But you still have accomplished a lot in higher graduation rates, higher secondary school attendance and teaching children how to live and work in an integrated setting.[62]

Wells and Crain also concluded that

> this plan did more good than harm. Because not only do individual students and educators benefit, but we think in the long-run the St. Louis Metro area benefited as well. In many ways, St. Louis is years ahead of other metro areas in terms of facing the challenges of the 21st Century—and developing a school choice plan with a social conscience.[63]

ATTITUDES

In 1988, five years after the program began, the *St. Louis Post-Dispatch* published an evaluation that included extensive polling and interviewing of students, parents, and teachers. The report found that white parents worried about the perception of increased danger and disruption in the schools. A large majority of white parents and teachers said they would favor using all of the desegregation money to improve the city

schools and to end the transfer program. E. Terrence Jones, a political scientist at the University of Missouri at St. Louis, said the biggest surprise to him was the resistance of the suburban teachers, most of whom were white. "I had thought they would buy into this as a 'noble experiment,'" he said, "but their dominant attitude is that it is a pain and they would prefer that this burden be lifted from their shoulders."[64] A majority of the suburban teachers said that they had to discipline city students more strictly and that fighting and thefts were up because of the transfer students. Jones said he found a "very grudging acceptance" of the program by suburban parents, and a "less-grudging" acceptance by suburban students. Still, 53 percent of white high school students said they agreed that it is a good idea to mix black city kids with white suburban kids. However, Jones found that when he asked "an open-ended question, or one that allowed alternatives, they came back at us like gangbusters—and often the message was, 'Put them back in all-black schools.'" A majority of white parents and students said that the African-American students hardly ever mixed and suburban students said the transfer students had less school spirit and lagged in their academic preparation.[65]

The attitude of black students and parents could not have been more different from their white counterparts. An overwhelming majority favored expanding the transfer program. Both transfer students and their parents gave the program high marks, saying they were getting a better education and learning to get along with white students. Eighty-eight percent of black parents said their children liked attending suburban schools. Thirty-nine percent of the transfer parents said that the program had helped a lot in teaching their children how to get along with whites; another 30 percent said it had helped some. Black students agreed that the program had improved their relations with whites and spoke of a high level of social interaction with resident white students.[66]

In 1997, nine years later, Jones conducted another survey that showed somewhat less hostility among whites and somewhat less commitment to the program among blacks. A majority of St. Louis, black and white, said that the transfer program had helped race relations, improved the quality of education in the region, and enabled black and white students to get to know each other and work together. A strong majority of both black and white residents, however, said they would favor ending the transfer program if the money went to improve the city schools. This was a big change from nine years earlier for the black

parents. Only 30 percent of all residents said they would worry about returning to racially isolated schools, and there was no dramatic difference in the numbers for whites and blacks; 24 percent of blacks and 21 percent of whites said it would not worry them at all. By a large majority, both blacks and whites said they would oppose a local tax increase to pay for continuation of the transfer program.[67]

There are several possible explanations for the drop in black support for the program. One was that a number of NAACP leaders and African-American politicians nationwide were beginning to question desegregation programs that put all of the busing burden on African Americans and implied that black schools were inferior. The mayor of St. Louis at the time of the survey was Freeman Bosley, Jr., one of the black political leaders who believed that the money would be better spent on new, high-quality black schools. (Bosley lost his re-election campaign to a supporter of the transfer program.) The other main explanation for the changing attitude was that political leaders, teachers, and parents had concluded that the best students were taking the bus to the county, creaming the city schools of the quality pupils.

Given that change of attitudes and those polling results, the proposal that Attorney General Jay Nixon was about to make would have seemed like a sure thing: quickly phase out the transfer program and divert much of the money to building new public schools in the city. But, within two years, Nixon's U.S. Senate campaign had been lost on the shoals of that proposal. A coalition of business, political, and opinion leaders had joined together to pass a law in the Missouri legislature that continued the life of the transfer program.

A Political Miracle

Jay Nixon, true to the anti-desegregation tradition of the attorney general's office, opposed the school desegregation programs in both St. Louis and Kansas City. He first set his sights on the Kansas City plan, which had a $1.3 billion-plus price tag that made it the second most expensive school desegregation program in the country after St. Louis.

Kansas City had taken a much different approach, however. It made all of its middle and high schools into magnets that were supposed to be attractive enough to lure white suburban students. They built the schools, one with an Olympic-size swimming pool and another with a planetarium. But they didn't come. One reason for the different

approach in Kansas City was that the federal judge there had concluded that there was no interdistrict violation. That meant that there was no stick to prod suburban schools into joining a voluntary transfer program, as there was in St. Louis. Instead, the court built the fancy schools in the vain hope that they would lure the suburban students. The difference in the St. Louis and Kansas City experiences suggests that no large-scale, interdistrict busing program is likely to be set up without both the carrot and stick approach that Judge Hungate used. In other words, the difference between the Kansas City and St. Louis desegregation plans suggests that both positive incentives and the threat of negative consequences are important to the creation of an interdistrict desegregation plan.

Nixon took his challenge to Kansas City's plan to the Supreme Court. But this was not the Warren Court, with its unanimity on school desegregation. Nor was it the Burger Court, which had generally continued to support court-ordered desegregation. This was the Supreme Court of William H. Rehnquist with Clarence Thomas sitting in the seat once occupied by Thurgood Marshall.

Justice Marshall, the former NAACP lawyer who had won *Brown*, always emphasized the idea of stigmatic harm—that segregated classrooms harmed black children partly because they stigmatized black students as inferior. Justice Thomas has an entirely different idea of stigma. This is the man who sat in the corner of his college classes because he did not want to be the recipient of favored treatment. He is not concerned about the stigma of segregated classrooms; he is concerned about the stigma of giving blacks special treatment. In the Kansas City school case, Justice Thomas was the deciding fifth vote for the holding that a court could not order an interdistrict remedy for an intradistrict violation. He expressed his concern for the stigma caused by desegregation: "It never ceases to amaze me that the courts are so willing to assume that anything that is predominantly black must be inferior," he wrote.

The decision in Kansas City paved the way for Attorney General Nixon to go to federal court in St. Louis. He argued that St. Louis, too, had an interdistrict remedy for an intradistrict violation. The suburban school districts in St. Louis County had agreed to the interdistrict remedy voluntarily, without a court finding of an interdistrict violation. But, the state had long argued that the interdistrict remedy was mandatory because it had to pay the costs of the plan. Nixon pressed his advantage at a hearing on unitary status in the spring of 1996. But the

NAACP put on a strong defense, and U.S. District Judge George Gunn, Jr., refused to grant the motion for unitary status. Instead, Judge Gunn appointed Dr. William Danforth to serve as a settlement coordinator to try to lead the parties to a mutually agreeable way of bringing court supervision of the desegregation case to a close. Dr. Danforth is the older brother of former Senator John C. Danforth (incidentally Justice Thomas's mentor and defender before the Senate). At the time he took on the role of settlement coordinator, he had just retired as chancellor of Washington University. In the months preceding his assignment for the court, he had led a study of the school desegregation program on behalf of St. Louis's big business organization, Civic Progress. Dr. Danforth had discovered that students in the city–county transfer program were almost twice as likely to graduate from high school as African-American students left behind in the city schools. The transfer students also had higher college-going rates. The data convinced Dr. Danforth and the business community that the busing program had important educational benefits. This was a surprising finding to many St. Louisans who still held a feeling of antipathy toward the busing program. This finding should not have been startling. It mirrors a national trend that found blacks cut the achievement gap with whites on the National Assessment of Education Progress from 1971 to 1988—a period of expanding desegregation. Since then, schools have resegregated, and the achievement gap has widened again.[68]

Convincing a professional educator such as Dr. Danforth was one thing, but convincing the Missouri legislature was another. The legislature had been extremely hostile to the desegregation program from the beginning, at times threatening to cut off funds. During the summer and fall of 1997, a joint legislative committee was appointed to look into how to bring the school desegregation case to an end in St. Louis. The committee was headed by two Democrats, Senator Ted House and Representative Steve Stoll. They seemed an unlikely pair to orchestrate a bill to preserve the busing plan because they came from outlying counties near St. Louis that had always been skeptical of the program. One hot evening in late summer, in the steamy basement of Roosevelt High School, the committee met to hear testimony. Most parents testified to the success of the desegregation plan and Dr. Danforth spoke in favor of the transfer program on behalf of Civic Progress. Shortly after midnight, Minnie Liddell, the mother of the first plaintiff, captured the imagination of the committee and the dwindling crowd with her plea to maintain the busing program.

That fall, Attorney General Nixon appeared on the steps of Vashon High School, a crumbling symbol of black pride in St. Louis. He announced that he would press to quickly phase out the transfer program and to spend $100 million on building new black schools in the city to house returning transfer students. The proposal had considerable appeal. Former mayor Freeman Bosley, the first black mayor of the city, had already stated his opposition to the transfer program. Nationwide, black support was eroding for busing programs that placed the burden of desegregation on black students. Nixon's announcement of his plan came as he geared up his campaign to challenge U.S. Senator Christopher S. Bond in the 1998 election. Apparently, he hoped desegregation would be the silver bullet that it had been for John Ashcroft fourteen years earlier.

But, instead of a silver bullet, the move turned out to be a booby-trap. Representative William L. Clay, in consultation with NAACP lawyer Taylor, wrote a devastating letter accusing Nixon of opposing desegregation. He called on President Bill Clinton to stay away from a political fundraiser for Nixon because of his stand. Soon, Nixon began to back away from his position, and by the end of the legislative session in May of 1998, he had signed on to the bill that enabled the city–county transfer program to continue. Nixon never recovered politically, however, losing to Bond partly because Bond won a record number of votes in the African-American community of North St. Louis.

Senator House and Representative Stoll wrote a bill that they hoped would end court supervision of the St. Louis schools, but retain the best parts of the desegregation plan—the transfer program and the magnet schools. The bill had to be rewritten many times before it passed in May 1998. Rural legislators were skeptical because many felt that St. Louis and Kansas City had been getting the lion's share of state education money because of the cost of the desegregation programs. However, the most dangerous opposition was from the St. Louis Board of Education, some African-American state legislators from the city, and many St. Louis teachers. The bill provided about $40 million to the city schools to replace about $60 million a year the city was receiving in state funds under the court-ordered desegregation plan. The school board, teachers, and legislators thought they were better off relying on the federal courts to continue supervision and funding. This was an unrealistic view in light of the Supreme Court decision in the Kansas City case and the whole direction of federal court litigation, which was winding down many court-run plans. Proponents of the House–Stoll bill

told the St. Louis opponents that the choice was not between $60 million and $40 million, but between $0 and $40 million because the court would most likely declare the schools desegregated and therefore unitary. It took the behind-the-scenes efforts of the NAACP's Taylor, Senator William Lacy Clay (the congressman's son), and Dr. James DeClue, the head of the NAACP's desegregation committee in St. Louis, to bring these black members of the legislature back on board.[69] A portion of the bill that threatened to displace the school board if the district failed to make quick improvements in test scores was modified to allow the board to continue. In addition, the black political leadership won a provision calling for the school board to be elected by district, rather than citywide. This change reversed a forty-year-old reform that Daniel Schlafly had won to reduce the control of politicians over school board members. This change helped win the support of African-American legislators, who had long favored voting by districts, thinking they would control more seats on the board.

Governor Mel Carnahan favored compromise over Nixon's confrontational style on school desegregation. He didn't take the lead in pushing for continuation of the busing plan, but he assigned his special counsel, Michael Wolff, to work with legislators to settle the case. Wolff, the NAACP's Taylor, Senator Harold Caskey, and representatives of Civic Progress were key backstage players in the passage of the bill. At the last minute, when a rural filibuster seemed possible, Senator Clay took to the floor to ask the legislature to take into account the broader public interest. Suburban Republican legislators, representing county areas involved in the interdistrict plan, supported continued funding of the interdistrict plan as well. Some of these Republicans had progressive views on education policy. Others were motivated by the desire to end court supervision. All realized that suburban districts had benefited financially from the program. The bill finally passed with a coalition of suburban St. Louis Republicans and urban Democrats.

The key provision of the law provided continued funding for a reorganized transfer program and $40 million to replace the $60 million that the city district would lose with the end of court supervision. The bill also established a process for approving charter schools. However, two things had to happen before the law had any meaning. First, Dr. Danforth had to reach a settlement agreement with the lawyers for all of the school districts involved in the case. Second, and even more daunting, residents of St. Louis, who are usually allergic to tax increases, had to vote to increase their sales tax by one-half a cent. Old-time

political pros, such as Senator Thomas F. Eagleton, said the vote was virtually impossible to win.

For a time, it appeared as though the city would never have to vote on the tax increase because squabbling lawyers could not agree on a document for settling the desegregation case. The incentive of continued state funding again proved to be an important prospect for the suburban districts; the state would continue to pay suburban districts their own per pupil cost for educating transfer students. At the last minute, Dr. Danforth won agreement. Only one suburban district, the wealthy west county suburb of Ladue, insisted on being allowed out of the transfer program. Ladue argued that it had a larger home-district black population than it had at the beginning of the program. Even though Ladue was held to strong criticism in the wider community and on the editorial page of the *St. Louis Post-Dispatch*, it stuck by the decision.

Taylor, the NAACP lawyer and national education expert, insisted that the settlement agreement include provisions that require schools to be reconstituted if they do not improve within two years. Parents of children attending failing schools are given the option of sending their children to more successful schools in the district. These approaches are reflected in the national education bill adopted by Congress in 2001.[70] Taylor also pressed for a provision in the national bill that would permit students in failing schools to cross district, and even state boundaries, to find good schools. That provision is not part of the final law.

Even after Dr. Danforth achieved a settlement, the voters had to approve the tax increase in the February 2, 1999, election. Good government groups mobilized in favor of the tax increase. Civic Progress paid for a slick direct mail campaign to city voters stressing that a yes vote would help end the desegregation case. In other words, many voters approved the tax in order to end the desegregation case, even though that meant funding the desegregation plan for the future. The *St. Louis Post-Dispatch* published an editorial-a-day for the month leading up to the vote. Each editorial was accompanied by a picture of a child who benefited from the program. On election night, the tax passed handily.

The past two years raise some questions about the wisdom of some provisions in the House–Stoll bill. Test scores in the city schools have gone up just enough for the school district to avoid a state takeover, but not enough to suggest that students are getting a good education. Test scores in new charter schools have been low as well, raising questions about whether they provide a viable educational alternative to failing

city schools. The city–county transfer program has received little attention. The busing arrangements have been reorganized to save money; city children now have to attend particular suburban schools instead of being able to choose more widely among a variety of suburban schools. Little else has changed. School districts have the option of beginning to phase out of the program in 2002. For this reason, the community has the impression that the program is gradually coming to an end. As long as suburban districts continue in the program, however, there is funding to continue at least until 2008. After that, the legislature will have to again take up the question of how much funding to provide the transfer program. So far none of the participating districts has talked about leaving the program in 2002. If all of the districts continue accepting new students until 2008, the program would not come to an end until that year's kindergartners graduated in 2021. So, for the moment, the once controversial program that galvanized political campaigns is operating with the community's benign neglect.

Times have changed:

Minnie Liddell has had a stroke, which has diminished her power, but not her rough eloquence.

Craton Liddell, her son, is in his forties. After stints in the Job Corps, he's still short of his college degree.

John Ashcroft is the nation's chief legal officer in charge of the future of the nation's great experiment in school desegregation.

But some things have not changed:

Each day, about 12,000 little children rise before dawn and gather on the street corners of St. Louis to seek better educational opportunities in the suburbs.

NOTES

1. "Desegregation Report Card," *St. Louis Post-Dispatch*, June 8, 1997, p. A11. A relatively small fraction of the total amount of state money spent on the plan, about one-sixth, is for busing. The most detailed accounting of desegregation funds is contained in a 1995 report by Civic Progress, the local chamber of commerce. (See *infra* note 19.) At that time, $1.293 billion in state money had been spent on the program from fiscal years 1981–95, with $452.8 million going to tuition for suburban schools, $36 million for capital improvements in suburban schools, $17.4 million in tuition for the St. Louis public schools, $99.2 million in capital improvements for city schools, $439.5 million in programs to improve the quality of all-black city schools, $227.9 million in transportation for the transfer program, and $20.3 million in miscellaneous expenses.

2. *Dred Scott v. Sandford*, 19 How. (60 U.S.) 393 (1857).

3. *Plessy v. Ferguson*, 163 U.S. 537 (1896).

4. *Missouri ex. Rel. Gaines v. Canada*, 305 U.S. 337 (1938).

5. William H. Freivogel, "Decades of Conflict Cut a Path to Current Case," *St. Louis Post-Dispatch*, March 3, 1996, p. B5.

6. *Shelley v. Kraemer*, 334 U.S. 1 (1948).

7. *Jones v. Alfred H. Mayer Co.*, 392 U.S. 409 (1968).

8. *Missouri v. Jenkins*, 115 S.Ct. 1430 (1995).

9. Freivogel, *supra* note 5.

10. Harry Levins, "Black, White and Brown," *St. Louis Post-Dispatch*, May 15, 1994, p. B4.

11. *Brown v. Board of Education*, 347 U.S. 483 (1954).

12. Daniel Schlafly, letter to author, 1995.

13. Freivogel, *supra* note 5.

14. Schlafly, *supra* note 12.

15. *Liddell v. Board of Education*, 667 F.2d 643 (8th Cir. 1980).

16. Freivogel, *supra* note 5.

17. Liddell, *supra* note 15.

18. Gerald W. Heaney, *Busing, Timetables, Goals, and Ratios: Touchstones of Equal Opportunity*, 69 Minn.L.Rev. 735 at 809 (1985).

19. Civic Progress Task Force, "Desegregation" (A report from the Civic Progress Task Force on Desegregation of the St. Louis Public School System, delivered December 1995), p. 1. Between 1975 and 1995 the number of white children in the city schools fell 68 percent, from 25,510 to 8,160. The number of African-American students fell as well, from 62,947 to 31,570 (44,163 if one includes the city students in public schools in the county).

20. Bruce La Pierre, *Voluntary Inter-district School Desegregation in St. Louis: The Special Master's Tale*, 6 Wisc.L.Rev. 972, 975 (1987). At the start of the 1982–83 school year, the total enrollment of the city schools was 59,117, with whites comprising 12,207 or 20.6 percent and blacks 46,910 or 79 percent.

Even with the intradistrict busing plan, it was impossible to desegregate many of the racially isolated schools on the north side of St. Louis.

21. Id.

22. *Liddell v. Board of Education*, 491 F.Supp. 351 (E.D.MO. 1980). Paragraph 12(b) required the desegregation of the vocational schools. Paragraphs 12(d) and 12(e) required the federal government and the state to submit plans for ending government involvement in housing segregation. There was little follow-up on these housing sections, one of the big disappointments in implementation of the court order.

23. *Milliken v. Bradley*, 418 U.S. 717 (1974).

24. La Pierre, *supra* note 20 at 978.

25. William L. Taylor, e-mail to author, May 9, 2001.

26. Less than half the students applying for the transfer program in any given year were placed in schools. In the 1997–98 school year, for example, 6,424 students applied for the city-suburbs portion of the plan of which 4,151 were approved for placement and 2,913 actually placed. Of the students whose applications were not approved, 1,768 had not filed the proper behavior form or report card, 67 were ineligible because their home schools were already integrated, 274 because they needed special education, and 164 because the applications were cancelled. Those approved, but not placed, had applied for districts with no open slots. In the suburbs-to-city portion of the program that year, 1,444 students applied, 1,002 were approved for placement and 761 placed. Of the students whose applications were not approved, 47 had not filed report cards and 395 cancelled applications. The 238 students who had been approved, but not placed, had applied for magnet schools with no open places. (Voluntary Interdistrict Coordinating Council for the Settlement Agreement, Fourteenth Report to the United States District Court, January 1998.)

27. La Pierre, *supra* note 20 at 995–1007.

28. Id. at 972 n. 1.

29. Id. at 973.

30. Susan Uchitelle, contemporaneous notes provided to the author.

31. Edward H. Kohn, "Two More County Districts Seek Rejection of School Plan," *St. Louis Post-Dispatch*, March 4, 1981, p. A1.

32. Fred Lindecke, "McNary Alleges Failure to Fight Court," *St. Louis Post-Dispatch*, March 6, 1984, p. A5.

33. Id.

34. Fred Lindecke, "Television Commercial Gets the Credit in Ashcroft's Lopsided Defeat of McNary," *St. Louis Post-Dispatch*, August 12, 1984, p. B1.

35. Karen Komen, "Ashcroft Nips at McNary's Heels As They Tackle St. Louis County," *St. Louis Post-Dispatch*, August 4, 1984, p. A4.

36. Civic Progress Task Force, *supra* note 19 at p. 6.

37. La Pierre, *supra* note 20 at 1025.

38. Id.

39. Terry J. Hughes, "Magnets' Pull Weakens in Suburbs," *St. Louis Post-Dispatch*, February 25, 1988, p. A1.

40. *Liddell v. Board of Education*, 801 F.2d 278, 282084 (8th Cir. 1986).

41. Susan Uchitelle, interview with author, October 10, 2001.

42. Id.

43. Id.

44. Civic Progress Task Force, *supra* note 19 at Table 1.

45. Voluntary Interdistrict Coordinating Council report, *supra* note 26.

46. Uchitelle interview, *supra* note 41.

47. Franklin McCallie, principal of Kirkwood High School, interview with author, October 8, 2001.

48. Robert W. Lissitz, "Assessment of Student Performance and Attitude Year IV—1994" (Report delivered to the Voluntary Interdistrict Coordinating Council in December 1994), p. iii.

49. Id. at 13.

50. Id. at iii.

51. Final Department of Elementary and Secondary Education Data, August 1, 2001.

52. Civic Progress Report, *supra* note 19.

53. Id.

54. Id. at 8.

55. Voluntary Interdistrict Coordinating Council report, *supra* note 26 at iii.

56. Education Monitoring and Advisory Committee, *Assessment of College Prep and Related Programs: Final Report Pursuant to Memorandum and Order F(957)93* (Report delivered to U.S. District Judge George F. Gunn, Jr., on April 26, 1995), p. 89,

57. William H. Freivogel, "40 Years After Ruling, Schools Are Still Failing," *St. Louis Post-Dispatch*, May 15, 1994, p. A1.

58. Freivogel, *supra* note 5.

59. Kathryn Rogers, "What Next? Courts Must Answer Key Questions About Transfer Program's Future," *St. Louis Post-Dispatch*, February 28, 1988, p. A1.

60. Amy Stuart Wells and Robert Crain, remarks to Common School Task Force of The Century Foundation, fall 2001.

61. Taylor e-mail, *supra* note 25.

62. Uchitelle interview, *supra* note 41.

63. Wells and Crain remarks, *supra* note 60.

64. Edward H. Kohn, "School Transfer: Poll Finds Two Views," *St. Louis Post-Dispatch*, February 22, 1988, p. A1.

65. Id.

66. Id.

67. Bill Smith, "Making the Grade?" *St. Louis Post-Dispatch*, June 8, 1997, p. A1.

68. Taylor, *supra* note 25.

69. Id.

70. Taylor has been influential in helping write these approaches into the bill.