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“East Texas Desegregation: The Perils of Change”

 Segregation was a major issue in the U.S. through the first seventy-five years of the 20th century. Blacks and whites had different bathrooms, water fountains, restaurants, and schools. The practice of segregation was justified by *Plessy v. Ferguson,* claiming black and white individuals had equal opportunities and facilities, which was not true. Many white schools had better facilities (classrooms, gymnasiums, cafeterias, etc.) than black schools. After decades of segregation, the U.S. Supreme Court reversed *Plessy v. Ferguson.* In *Brown v. Board of Education of Topeka, Kansas* casein 1954, the Supreme Court decided that segregation of students in public schools was unconstitutional. The Civil Rights Act of 1964 came a decade later which prohibited the discrimination against anyone on the basis of “race, color, and national origin.”

The eastern division of the U.S. District Court (Tyler, TX) issued Civil Action 5281, which ordered the Texas Education Agency (TEA) to review and deny transfer request that impeded desegregation. The court also proposed that East Texas school districts consolidate in an effort to comply with the desegregation requirements. East Texas school districts perceived student transfers and proposed consolidation of schools as harmful to East Texas integration in the 1970’s. The TEA perceived the forced denial of transfers as impractical to students who lived far away from certain school districts. Consolidating schools would cause busing problems—longer travel and more students to move to and from the schools. East Texas school districts rejected the courts arguments on Civil Action 5281, using arguments that supposedly helped the students and their interests.

 The 14th Amendment was adopted in the 1868 to protect all U.S. citizens from being deprived of their basic rights listed in the Constitution. It was passed as a continuation of the 13th Amendment, which protects citizens from any law that promotes discrimination. The 14th Amendment was passed to protect U.S. citizens of any race, from laws that “shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws.” Public schools were depriving minority students of their right to participate in school organizations and clubs—i.e.; majorettes, band, or FFA. The federal courts used the Fourteenth Amendment against the school districts to argue that minority students were still not receiving fair treatment and opportunities.[[1]](#footnote-1)

 Title VI of the Civil Rights Act (1964) stopped the exclusion of individual participation in federally funded programs. The wording of the act is similar to the Fourteenth Amendment based on how it protects individuals. Federal courts argued that the schools, “on the ground of race, color, or national origin”[[2]](#footnote-2) were discriminating against certain students and excluding them from certain school programs or activities. The U.S. District Court in Tyler, Texas warned many schools in East Texas to allow minority students to participate in all school programs, such as athletics, student government, cheerleading, band and so on. Title VI included provisions for school transportation, new school boundaries, and student transfers. Some schools were stubborn and ignored these warnings, while other schools tried to prove that they were in compliance with the legal obligations of Title VI. Still other schools argued consolidations and student transfer obligations made it impossible to enforce Title VI in their schools.

 Article 7, section one of the Texas state constitution gave a vague interpretation for the federal courts and the school districts. The courts and the school districts often argued that they correctly interpreted this article of the Texas Constitution. According to article 7, “it shall be the duty of the Legislature of the State to establish and make suitable provision for the support and maintenance of an efficient system of public free schools.”[[3]](#footnote-3) School districts used this as a loophole to determine what was “suitable” and “efficient.” The U.S. District Court in Tyler, TX believed it was given the right to make provisions for the public schools and leave future legislation to the state of Texas. Proposals for school consolidations arose because of this, and it also caused schools in East Texas to have a flippant attitude in strictly enforcing their legal obligations.[[4]](#footnote-4)

 Civil Action 5281 forced the TEA to deny student transfer requests that impeded desegregation in East Texas public schools. The purpose of this document was to ensure that all student transfer requests were reviewed by the TEA. Upon reviewing the request, the TEA decided whether to allow the student to transfer or not. Their decision was based on if the request would impede the desegregation process in the public schools. Many students wanted to transfer to remain at a predominantly black or predominantly white school—causing the percentage of minority students to stay above 66%. Under the provisions of Civil Action 5281, the TEA was obligated to deny such student transfer requests. Some requests were made for non-racial reasons, but the court did not want white students fluctuating to a specific school district and did not want black students doing the same. It was a difficult task for the TEA and some exceptions were made, but Civil Action 5281 caused many arguments between the U.S. District Court, the TEA and East Texas school districts.[[5]](#footnote-5)

 The U.S. District Court in Tyler, Texas, led by Chief Justice William Wayne Justice, claimed that East Texas school districts were not meeting the legal requirements for desegregation. He referred to Civil Action 5281, the Fourteenth Amendment, and Title VI of the Civil Rights Act (1964) to prosecute East Texas school districts and the TEA. Justice originally heard the Civil Action 1424 in the U.S. District Court in Marshall, Texas. He transferred to the Tyler division and brought the case with him—which became Civil Action 5281. Justice spent a decade conversing with the TEA and the East Texas school districts about a resolution for integrated public schools. During his time with the case he persistently urged and legally threatened the defendants to adhere to the federal and state requirements for desegregation.

 The TEA’s approval of student transfer requests were perceived to impede the integration of East Texas schools. On behalf of the U.S. District Court, Justice wrote to school officials, pointing out irregular data in regards to minority enrollment in schools and inordinate amounts of student transfer approvals. He added a table to a specific letter addressing all TEA reviewed school districts. The letter noted disparities in minority districts, minority schools, and consolidated school districts. Justice showed that every school district had at least one disparity, according to the legal requirements of Civil Action 5281. The TEA was trying to make exceptions for special education students and handicapped students. Other students just wanted to transfer to a closer school district. Those exceptions caused school districts to violate section A (3) (b) of CA 5281. The transfers changed the school’s minority/majority population by more than one percent, a violation of sections A (1) and A (3) (b) of CA 5281.[[6]](#footnote-6)

 East Texas school districts were accused of prohibiting minority students their right to an equal public school education. Chief Justice William W. Justice wrote to M. L. Brockette, who was the Commissioner of Education in Texas. He (Justice) investigated many schools, but specifically used Paul Pewitt School to illustrate the problem “that classes are assigned on the basis of race; and that black students are not permitted to hold student offices or to be majorettes.”[[7]](#footnote-7) Under the provisions of Title VI of the Civil Rights Act (1964), Paul Pewitt School was discriminating against black students by denying them the opportunity to join student offices or the majorettes. Not only did Pewitt discriminate, it also violated section one of the Fourteenth Amendment. It states, “. . . nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws.” (14th Amendment, sec. 1). Pewitt School did not equally protect their black students, under the provisions of the Civil Rights Act (1964) and other state-mandated laws.[[8]](#footnote-8)

 William Wayne Justice believed East Texas school districts were not wanting to consolidate because they did not want to desegregate. In a letter from Justice, he refers to a federal court case in 1970, *U.S. v. Texas,* 321 F. Supp. He refers to eight school districts because they did not “insure equal educational opportunity for all students.” The case Justice cited was filed under a complaint that “actions and in connection with the creation and continued maintenance of nine all-black school districts.”[[9]](#footnote-9) In his letter, Justice insisted nearby minority school districts be consolidated with nearby districts, in order to eliminate disparities in the enrollment of minority students and teachers. A table was attached to Justice’s letter—listing twenty-one minority school districts, seventeen minority schools, and twenty consolidations. Twenty out of the twenty-one minority school districts had underwent consolidation. Only one school district was meeting the legal requirements of desegregation after being consolidated with a minority school district. The majority of school districts in Justice’s letter were failing their legal obligation to integrate their students.[[10]](#footnote-10)

 Many of the school districts in East Texas were failing to meet federal and state requirements for desegregation. The school districts and the TEA filed appeals and complaints that insisted they were upholding the legal requirements according to their interpretation. ISD’s and the TEA perceived denying student transfers and consolidation as problematic and impractical.

 The TEA argued that it did not impede desegregation by allowing exceptions for student transfers. Under the provisions of Civil Action 5281, section A (1), the TEA was required to deny any student transfer request that contributed to segregation. Mr. Leon R. Graham, the assistant Commissioner for Administration for the TEA, had previously denied student transfer requests for graduating seniors, special education students and deaf students. Graham’s legal counsel continued to examine the requests and overturned the previously denied student transfer requests. The TEA used this as an opportunity to prove they were not violating section A (3) (b) of CA 5281. The law states, “the defendants [TEA] shall not approve transfers where the effect of such transfers will change the majority or minority percentage of the school population, based on average daily attendance in such districts, by more than one percent in either the home or the receiving districts . . .” Civil Action 5281 did not specifically state that students with special needs could not transfer to nearby school districts. Students that were classified as “special needs students” had their transfer requests granted. Graham even stated in his letter, “. . . it would be impossible for them to graduate in their home district.” (TEA report, 1971). Allowing these student transfers changed some school districts majority/minority population by more than one percent, however; it was justified because graduating seniors, special education students and deaf students’ needs were not met in their school district.[[11]](#footnote-11)

 East Texas public schools claimed they were giving minority students rights to an equal education. William W. Justice was questioning why many school districts and schools still had over a 66 percent minority rate. He charged these school districts and its schools for discriminating against minorities based on Title VI of the Civil Rights Act (1964) and the Fourteenth Amendment.

 Some schools had already consolidated but were still over the 66 percent mark. Justice declared that these school districts and its schools were prohibiting minority students from their right to an equal education. David L. Norman, Assistant Attorney General (Civil Rights Division), responded by noting that many of the minority students consolidated to smaller schools and/or smaller school districts, which caused the minority enrollment to remain above 66 percent. Nine school districts were recommended to desegregate but did not give the TEA an indication of doing so.[[12]](#footnote-12) The TEA was trying to enforce integration requirements about the school districts explained the data was due to students refusing to consolidate and many minority schools were consolidated into smaller schools.[[13]](#footnote-13)

 Consolidating East Texas school districts and their schools caused two main problems—student transfer requests and busing issues. The state of Texas enforced court ordered Civil Action 5281—which forced the TEA to deny student transfer requests that impeded desegregation. This action was mandated under the provision of article 7 of the Texas Constitution, to support and maintain “an efficient system of public free schools.” School districts, the TEA (Texas Education Agency), and the courts had argued constantly about the impact of student transfers. It was conceived that many white students would transfer to other predominantly white schools once the black students were integrated, and vice versa. School integration would make it difficult for the receiving and sending schools to deal with an enormous influx of new students and some schools did not have the facilities to host the large enrollment of students. The federal government requested the states to create and enforce desegregation legislation. U.S. District courts forced school districts and their board members to submit proposals for district-wide integration. The courts rejected most of the proposals and forced school officials to re-submit integration plans until it met the federal and state desegregation requirements. Federal desegregation required had to meet the legal obligations of Title VI of the Civil Rights Act (1964) and section I of the Fourteenth Amendment. Both pieces of legislation was to ensure minority students were not denied their right to an equal education, on the basis of race.

 Forced busing caused students to boycott school and it dramatically changed black and white student populations. Forced busing caused issues that resonated throughout the nation. Cross-district busing changed the student population in multiple school districts. In Detroit, for example, Warren School District bused black students from their schools to predominantly white schools. White and black students protested to express their frustration with forced busing. Over one thousand white students in Warren refused to go to school until cross-district busing ceased. Parents of black students threatened to boycott Warren school district if continued cross-district busing. Forced busing in Dallas caused a notable increase in white flight. One school district had seventy percent white students, but fifteen years after cross-district busing began it became seventy percent black student population. Many school districts experienced changes in their populations due to white flight.

School districts argued that the consolidation of schools would cause busing issues based on housing patterns and longer travel. White students were being bused to predominantly black schools and vice versa, causing the buses to travel farther, costing more money. Another major problem was the housing patterns of the towns within the school districts. “Forced busing” may have solved some of the integration process, but many of the parents insisted having their children walk to the nearby school. Buses would be scheduled to drive to white neighborhoods and drive back across the town or possibly to another town, to place white students in a predominantly black school. Likewise, buses went to black neighborhoods and drove black students to predominantly white schools. Consolidating schools would not guarantee a balanced percentage of majority/minority students, and it would create longer distances for buses to travel with students to and from school.

 Tucker Independent School District filed a formal complaint to the U.S. District Court in Tyler, Texas. Anderson Independent School District agreed with Tucker ISD and filed five days later. The court responded and claimed Tucker ISD did not comply with Civil Action 5281 and the Fourteenth Amendment. Marshall Spivey, on behalf of Tucker ISD, stated “. . . said District having one elementary school, one junior high school, and one high school, that serve all students in the District without regard to race or color.” Marshall Spivey, Attorney for Tucker ISD, argued that the District complied with CA 5281 and the Fourteenth Amendment. He wrote a list of compliance and how the laws were affecting Tucker ISD—mainly student transfers and its busing issues.[[14]](#footnote-14)

 The proposed consolidation of Tucker Independent School District was perceived to cause a large amount of student transfers. Tucker ISD noted that an “all-negro” school did not lie adjacent to their school district. Provisions by Justice and the U.S. District Court mandated that school districts must consolidate if a minority school district lies adjacent from it.[[15]](#footnote-15) Tucker ISD administrators believed students would try to move or transfer to a closer school district. Attorney Spivey made special note of the rapid black population growth in Tucker ISD from 1969-1970 through 1970-1971. The black student population more than doubled, causing Tucker to argue that the school district would balance itself out. If a predominantly black school district consolidated with Tucker ISD and the population continued to grow, Tucker would morph into a predominantly black school district. They believed it would cause black student to request transfers to another school district close to their homes and the white students would try to transfer back into Tucker ISD.[[16]](#footnote-16)

 Proposed consolidation of St. Paul-Shiloh school district and Oakwood school district into Tucker ISD was perceived to cause busing problems because of students traveling longer distances. The courts argued that refusing to offer busing to students throughout multiple school districts was an act of discrimination. School districts were to be responsible for keeping balance among schools by restricting school districts and its schools from exceeding 66 percent majority/minority rates. Tucker ISD perceived it was impractical to force buses to travel over twenty-five miles away to bus students from St. Paul-Shiloh District to Tucker. St. Paul-Shiloh had much closer schools for their students to attend, regardless if it was a minority school or not. Oakwood District was over fifteen miles away from Tucker ISD and also had closer schools for their students to attend. It was perceived to be impractical to consolidate Tucker ISD with minority schools when the black population had more than doubled since the previous school year. “Forced busing” was intended to help eliminate discriminatory selection of students to certain school districts, but it caused difficulties for buses traveling around fifty miles per day to relocate students.[[17]](#footnote-17)

 Federal and state (Texas) legislation were implemented a decade the *Brown v. Board of Education of Topeka, Kansas* case. The courts had to act strictly to ensure segregation was eliminated in East Texas school districts. Compliance with these laws were perceived to be harmful in East Texas integration in the 1970’s. Consolidation caused school districts to enforce strenuous busing policies. The integration of East Texas was needed, but it endured many problem during the process.

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