

A CASE STUDY ON THE DEVELOPMENT OF DESEGREGATION IN USD 501 IN
TOPEKA, KAN., THE HOME OF THE DESEGREGATION MOVEMENT

by

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Abstract

This case-study focuses on the desegregation processes that occurred in USD 501 in Topeka, Kan. USD 501 is the Topeka public school district addressed by the Supreme Court in the infamous *Brown v. Board of Education*, which is the case credited with ending the legal racial segregation of children in public schools. The Supreme Court ordered the subsequent disbandment of all racial segregation in public school districts in 1955. However, USD 501 did not successfully carry out this order for nearly forty years. Therefore, the primary question of this thesis is, "Why was there a forty year delay in the creation of desegregation plan in USD 501?" This research question is, however, a multipart question and therefore required answering the following associated questions: 1) what is the definition of desegregation?; 2) What does desegregation look like?; and 3) did desegregation occur in USD 501? Through the use of sociological theories and court records, I was able to answer each of the associated questions, as well as discern the answer the main thesis question. The reason for the forty year delay in the development and implementation had a two part answer: 1) socially reproductive action was often used to reinforce social and spatial inequalities in Topeka itself, which maintained the racial segregation of USD 501 schools; and 2) the expectations of the desegregation process changed over time. This led to the second of the main thesis questions which was, " How was desegregation originally defined in the *Brown* case, how is it understood currently, and how did its definition change over time?" I found that the new expectations of desegregation were tied to a 1968 Supreme Court case, which established the Green Codes for the desegregation process. The Green Codes structured the court's assessment of desegregating districts, which made identifying informal actions that promote segregation more identifiable. Then I examined the effect of the desegregation plan's inception in USD 501. A correlation was found between the desegregation plan's inception and declining white enrollment, which lasts approximately thirteen years. I then summarize the research findings, and use sociological theory to support the conclusions.

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Chapter 1 - Introduction

Brown v. Board of Education Topeka (1954) was arguably one of the most important cases of civil rights litigation in the history of the United States. The class action lawsuit specifically addressed the inequality created by racial segregation in public education. The Supreme Court decision deemed separate educational facilities to be inherently unequal and determined the separate but equal doctrine, established by *Plessy v. Ferguson* (1896), to have no place in education. Representing the watershed of school desegregation, the Topeka public school district (USD 501) was the source of the lawsuit.

The 1954 Supreme Court case was comprised of five separate cases of defendants challenging the constitutionality of public school districts operating segregated systems, but *Brown v. Board of Education Topeka* was chosen as the lead case to represent the compiled group. The Supreme Court's ruling in *Brown* required any district found to have operated a segregated education system to be supervised by the district courts until that school district was able to alleviate the vestiges of inequality created by the segregated system. Though ordered to desegregate in *Brown II* (1955), a continuation of the first case that carried the order to desegregate, USD 501 did not develop and implement a court approved desegregation plan until 1994. Being that it was the most famous of the five cases and because it is the namesake for school desegregation on the basis of race, it is surprising that it took nearly 40 years to create a court approved plan to address this issue in USD 501. This segues into the key research question of this thesis, "Why was there a 40-year delay in the development and implementation of the district's desegregation plan?" However, this is a multi-part question that must be answered using a series of other questions. The multi-part questions are used to identify whether or not desegregation occurred. And, if so, what does desegregation look like? However, these questions first require a definition of desegregation according to the court orders from the *Brown II* case in 1955. By answering these questions I was then able to determine whether desegregation did occur and, from the results of these questions that I answer the first question of this thesis.

In order to be able to identify potential sources for the delay in the desegregation plan's development, as well as potential explanations for the declining white enrollment after its inception, I examine the sociological literature on race including its influence on the education

system. Racial Theory in the post-war era was oriented around sociological problems of the time (state sponsored discrimination), leading to the progressive era of racial reform associated with Affirmative Action politics (Winant, 2000). When schools began to racially integrate in the 1960s, many segregated cities that attempted integration experienced a re-segregation of their metropolitan public school districts (e.g., Memphis, Tenn., Louisville, Ky.). In Memphis, whites moved to the suburbs to reproduce the social advantages of race and class, an exclusionary process that maintained structural inequalities through geographic location and residential patterns. In the color-blind view of the contemporary era (post-racial society), characterized by race neutral public policy development and belief in the ideology of meritocracy to alleviate social inequality, individual action is pivotal to maintaining both structural and resource inequalities (Kaufman, 2005). However, when given a choice, individuals' actions will always seek to improve or secure their social advantages, whether race or class based, which is generally facilitated through the education system (MacLeod, 2009). The social theory used to explain such action is Social Reproduction Theory.

Social reproduction theorists often cite the organizational structure of the education system as the root of social inequality in capitalist societies (Bowles & Gintis, 1997; MacLeod, 2009; Bourdieu, 1989). Peter Kaufman (2005) suggests the social reproduction of the middle-class is reliant on exertions of human agency to which he stated, "Without purposeful action, skillful negotiation, and the activation of structural advantages, the intergenerational transfer of a privileged middle-class status would be jeopardized" (p. 265). According to Lareau (2000), the possession of capital alone does not guarantee its benefits to the individuals of a particular class on the merits of their social status'. "While individuals possess capital, they must 'invest' these class resources to yield social profits. Privilege associated with class does not automatically yield benefits, for individuals must 'activate' those resources" (Lareau, 2000; p. 177). In sum, individuals act in their own self-interests and the interest of their families to ensure the maintenance or improvement of their social position/status. In urban settings class and social status divisions are often based on the geographic location of an individual's residence (Fox-Gotham, 2002; Denton & Massey, 1993). Historically the inequality between blacks and whites was created and maintained through spatial inequalities via uneven development, and when coupled with neighborhood-based educational assignment policies, such actions exacerbate existing inequalities (Fox-Gotham, 2002; Denton & Massey, 1993).

It is important to note that the national educational policy agenda shifted in the years just prior to the development and implementation of USD 501's desegregation plan to a new policy paradigm based on educational choice. Educational choice ideology was promoted as a panacea for improving public schools through competition using free-market principles in school selection. The laissez-faire educational policy shift increased parental agency in school selection, which allowed parents to enroll their children in districts of their choosing. In some cases incentives are used to encourage parents to exercise their choice options (e.g., vouchers, tax breaks). After USD 501 was able to finally develop and implement its desegregation plan in 1994, there was, coincidentally (or not), an immediate decline in white enrollment in the ensuing years. This is later illustrated by enrollment data obtained from the Kansas Department of Education. Prior to the plan's implementation, white enrollment was consistently around 9,500. But between the 1993-94 and 2007-08 academic years, white enrollment fell thirty-three percent to approximately 6,000¹ (Kansas Department of Education Enrollment Database, 2011).

The development of the district's desegregation plan came on the heels of a second suit against the district in 1987 regarding the order to desegregate in *Brown II* (1955). This case was filed by Linda Brown, the child plaintiff in the original case, on behalf of her children who were now enrolled in the district. Brown challenged the district's efforts in attempting to comply with the original order to desegregate in 1955, claiming the district to have become negligent in its attempts to follow through with the order. In the 1987 case a Topeka District Court ruled against Brown, in favor of the district, stating that USD 501 had made sufficient attempts to comply with the 1955 order claiming that there was no intent to discriminate on the part of the district, and dismissed the case. On appeal, the Tenth Circuit of Appeals Court reversed the decision of the Topeka District Court stating "the court errs in its focus on the intent to discriminate." This segues to the second thesis question, "How was desegregation originally defined in the Brown case, how is it understood currently, and how did its definition change over time?" After answering this question, I examine the effects of the desegregation plan's implementation on the district, specifically focusing on enrollment trends to identify correlations between the two. To answer these questions I first turn to the answers derived from the first thesis question and

¹ Demographic enrollment data discussed at length in Chapter 4; Table 4.1 is a compilation of the demographic enrollment data for USD 501 from 1992-1992 to 2009-2010.

compare the desegregation requirements between 1954-1989 and 1990-present. If there is a change in the definition of desegregation, I examine how this definition changed over time, and what are the contemporary requirements of desegregation?

This thesis intends to explain, through historical analysis, the social processes contributing to the delay in the development and implementation of a desegregation plan by the district, as well as examine the effects of the desegregation plan's inception in USD 501 one of which appears to be declining enrollment—specifically white enrollment. To answer these questions I utilize archival—primary resource documents with a case study research design. The primary document sources are: 1) Official Kansas Department of Education (KDE) enrollment statistics, 2) the district's Board of Education meeting minutes, 3) decennial census tract data, and 4) court case records. Based on previous research in social reproduction theory (Bourdieu, 1989; Bowles & Gintis, 1977, 2002; Kaufman, 2005, etc.), sociological race theory (Bonilla-Silva, 2000; Doane & Bonilla-Silva, 2003, etc.), race and urban development research (Fox-Gotham, 2002; Denton & Massey, 1993, etc.), and sociological research on the effects of both on education (Bankston & Caldas, 1996; Kozol, 1991; etc.), I expected the explanation of declining enrollment to include: little or no explicit mention of race in the declining white enrollment following the plan's inception, and the delay in the desegregation plan's development to be explained by uneven development in the city—specifically housing—and informal socially reproductive actions on the part of the district in its effort to desegregate as the source of the delay².

Next I discuss the methods for investigating the decline in district enrollment following the adoption of the district's desegregation plan, which is addressed at-length in Chapter Four. In Chapter Two I conduct a literature review of the sociological theories used in to examine the questions of this thesis. Included in the literature review is a synthesis of two contemporary examples of racial conflict in education regarding the spatial separation of blacks and whites that threatens the re-segregation of some public school districts. These examples illustrate the contemporary significance of racial segregation in public education. In Chapter Three I

² Residential segregation is an example of an informal method of maintaining racial segregation in society. Once discrimination on the basis of race became illegal in the public sphere white flight developed as a informal method of maintaining racial inequality between blacks and whites, which usually incorporated uneven development.

synthesize the legal history of school desegregation in USD 501, infamous for *Brown v. Board of Education* (1954), and examine desegregation between the 1954 and 1989 lawsuits. In chapter Four, I examine the effects of the desegregation plan's implementation from 1996-2010 and establish what the contemporary phase of desegregation looks like as well as its requirements. Lastly, the Fifth and final chapter synthesizes and interprets the data, discusses the research findings, and draw conclusions.

Research Methods

To answer the first question of this thesis I utilize primary resource document data from the 1954, 1955, 1987, and 1989 *Brown* cases. First, I utilize materials from the 1955 case to determine how desegregation was defined in the original case, and how it was to be measured. I then examine the records from the 1989 case, where the Tenth Circuit of Appeals Court ruled against the district stating that it had yet to remove the remaining vestiges of inequality from the previously segregated system, to identify the district's actions to desegregate since the 1955 decision and also to determine whether or not the measures for desegregation changed over time. Arguments and evidence presented in these cases provide the necessary data for discerning the reasons as to why the desegregation plan took nearly 40 years to develop and implement.

The method of addressing the second question of this thesis— How was desegregation originally defined in the Brown case, how is it understood currently, and how did its definition change over time?—utilizing records from the 1989 case, and other desegregation cases, to examine the contemporary definition of desegregation and its requirements. To answer the subsequent question of what were the effects of the 1994 plan's implementation in the district, I use KDE enrollment statistics to examine the demographic composition of students in the district, post-plan, looking for a correlation in the plan's inception and declining white enrollment. I also examine the district's Board of Education (BOE) meeting minutes from the from the 1996-1997 school year forward to identify the district's response to declining enrollment in the post-plan years, specifically looking for acknowledgement of declining enrollment and mention of race/racial issues.

The analysis of the demographic composition of the student body, specifically the declining white enrollment following USD 501's adoption of its desegregation plan, is an archival case study of secondary data. I conduct a historical analysis of primary source

documents starting with the 1996-1997 academic year, since the district's plan was projected to be fully implemented in three years. The ensuing analysis attempts to identify a source for the decline in white enrollment. The analysis of the BOE meeting minutes provides insight into the changes occurring in the district in the years under examination, and if educational choice (e.g., transfers, students moving into other districts, etc.) contributed to the decline in white enrollment.

Demographic enrollment data were collected from the KDE public archives. To examine the impact of the desegregation plan's approval and implementation on enrollment in the district I start with data from the 1992-93 academic year and end with the 2009-10 academic year. I specifically look to correlate any changes in the demographic composition of the student body to the desegregation plan's inception, which occurred between the 1994-95 and 1996-97 academic years. Archival data provided by the KDE contains all of the necessary data for a thorough analysis to answer the research question, and archival material is virtually non-reactive to the presence of investigators and should present limited challenges in accessing necessary data (Berg, 2009).

The demographic profile of schools in the state of Kansas includes both race and ethnicity using the following categories: white, black, Asian, Hispanic, and multi-racial. However, since the focus of this thesis is on the segregation of white and black students in the district I have collapsed the data into the following categories: black, white, Hispanic, and other minorities; Asian and multi racial were collapsed into the other minorities category for aesthetic purposes (to better illustrate the changes in the racial diversity of the district for the purposes of this study) as well as for the limited significance the data represent to this study. In my analysis I am specifically looking for any trends that suggest an increasing racial isolation within the district has occurred.

The data collected from the district in the 1989 *Brown* court case allows me to answer the first question of this thesis, and the secondary data analysis using KDE district statistics address the supplemental question of what was the plan's effect on the district, which is based on the research findings that answer the second question of the thesis. Chapter Three utilizes data from the 1989 court case, along with other sources, to answer the first question of this thesis. Chapter Four then analyzes the quantitative data from the KDE statistical database to measure the effect of the implementation of the desegregation plan and identify any legal changes or enhancements

in the desegregation process. Chapter Five is the culmination of findings containing the conclusion and discussion of the research.

Chapter 2 - Literature Review

In this chapter I discuss contemporary sociological theories on race, school choice and its policy ideals and agendas (e.g., the use of market ideology in education) and its potential impact on racial segregation, and contemporary issues of segregation/diversity policy debates in public education. I discuss contemporary race theories in sociology as the guiding thread in the explanation of declining white enrollment in USD 501, and situate the theories within the development of educational choice agendas developing at the time of the decline. The development of these theories is a necessary prerequisite for understanding the possible reasons for the decline in white enrollment in USD 501, and other contemporary issues of racial segregation in the racial social structure.

I start with an examination of the sociological literature on race. This literature provides a foundation for understanding race, racial inequality, and the contemporary racial social structure in the U.S. Understanding the foundation of race and racial inequality is pivotal to the historical analysis of contemporary racial segregation and isolation occurring in public education.

Following the discussion of sociological race theories I examine the literature on uneven spatial development, which has historically influenced the structure of inequality between whites and blacks. I then synthesize the principles of Social Reproduction Theory (SRT) and its impact on understanding the creation and maintenance of structural inequalities. Social Reproduction Theory is an integral part of the discussion of the organization and structure of the educational system and its effect on stratification. Socially reproductive action, deliberate or not, maintains the structures of inequality in a society (Kaufman, 2005; MacLeod, 2009). Since the source(s) of the decline in white enrollment may be the result of socially reproductive action, it is necessary to define and comprehend social reproduction theory as a part of explaining the decline in white enrollment.

The section that follows uneven development and Social Reproduction Theory covers the neo-liberal policy shift in education—educational choice. Educational choice policies developed just prior to the inception of the district's desegregation plan, and the concomitant decline in white enrollment that occurred suggests that educational choice policy may have facilitated the decline—at least to some degree. Because the state of Kansas allows the transfer of students between districts to occur at the discretion of the participating boards of education, an

examination of USD 501's BOE meeting minutes gives an accurate depiction of whether or not choice exacerbated the decline of white enrollment. Choice is also covered in the race literature in connection with residential segregation as mechanisms of social reproduction—residential segregation caused by families' neighborhood selection (with an emphasis on the racial composition of the neighborhood) is a socially reproductive choice that impacts the racial composition of local school districts (e.g., the 1960s-1990s in Topeka).

Finally, I examine two contemporary cases of racial integration/diversity policy issues in public education—in Memphis, Tenn., and Wake County, North Carolina. In both cases race is the central point of the conflict regarding the public school system. Yet, in both cases, there is limited explicit discussion of race. Connections can be made between the social theories discussed and the situations plaguing both public school systems. The situations in these two school districts illustrate the importance of grasping the concepts of the social theories discussed and their application in explaining desegregation, its effects, and the possible connection to the decline of white enrollment in USD 501.

Race in America

In 1901, W.E.B. Dubois stated, “the problem of the twentieth century” was “the problem of the color line.” Now in the twenty-first century, the color line remains a relevant issue in the U.S. Understanding race as a socially constructed concept and the implications it has in society are pivotal to understanding the issue of segregation in public education. Over the next couple of paragraphs I explain the issue of racial segregation in education through a synthesis of the contemporary sociological literature on race. The synthesis I develop examines the racial social structure of the U.S. that led to the development of the neo-liberal policy agenda—educational choice.

“Race can be defined as a concept that signifies and symbolizes sociopolitical conflicts and interests in reference to different types of human bodies” (Winant, 2000). The defining characteristics of race are not biological, but rather developed by proponents of the hegemonic social structure. These definitions can change capriciously within the context of the racial social structure (Omi & Winant, 1994). The concept of race developed at the inception of the global political economy (Omi & Winant, 1994; Winant, 2000).

In the social history of the U.S., the construction of the racial social structure began with the development of socially exclusionary principles (e.g., slavery & Jim Crow). Michael Omi and Howard Winant (1992) develop the concept of a racial formation project. This project is an interpretation and representation of racial dynamics in an effort to distribute resources along particular racial lines. The political organization of a class is in many ways a racial project. In the sociopolitical history of education, the segregation of children by race was a racial formation project because the hegemonic social structure promoted segregation, thereby creating an unequal distribution of social resources between blacks and whites. At its inception in the U.S., the hegemonic racial social structure sought to create and maintain social inequities between blacks and whites through segregation. Supporters of this project are considered to have been politically right of center—conservative. The hegemonic social structure of the time created policies such as Jim Crow to continue the social reproduction of racial inequality in the U.S., which is easily facilitated by using the education system (MacLeod, 2009; Bourdieu, 1989; Bowles & Gintis 1977, 2002).

The hegemonic social structure would continue to be dominated by the political right until the post-war era, when the (at the time popular) biological explanations for racial differences, which had developed large bases in the U.S., Great Britain, and Germany, forced progressive democratic change (Winant, 2000). The decline in support for biological racism was due to its association with German fascism following the end of the war (Barkan, 1992). The result of declining support for biological racism, championed by the political right, was a shift in the hegemonic social structure that led to the civil rights revolutions of the 1950s-1970s (Myrdal, 1962; Winant, 2000).

The democratically progressive policies of the new hegemonic social structure saw the creation of race specific policies to reduce social inequalities between blacks and whites (e.g., school desegregation, Affirmative Action, etc.) (Bonilla-Silva, 2001; Winant, 2000). The hegemonic social structure that developed in the post-war and civil-rights eras and gave legal protection against discrimination (e.g., the racial segregation of public schools, housing discrimination, etc.,) is what I call the era of *democratic liberalism*. The democratic liberalism era stimulated the creation and implementation of race conscious policies in the post-war period, and is generally associated with the political left.

The hegemonic dominance of democratic liberalism was short lived, lasting approximately 20 years. This was replaced by what Tim Wise (2010) calls *post-racial liberalism*. Wise (2010) stated, “The combination of race-neutral rhetoric and colorblind public policy is post-racial liberalism. Post-racial liberalism is a form of left-of-center politics, which had its adherents dating back at least forty years, and which emerged after the civil rights revolution” (p. 16). Under the hegemonic structure of post-racial liberalism, specific policy agendas focusing on reducing racial inequalities are deemed unnecessary in the colorblind era (Bonilla-Silva, 2001; Wise 2005, 2010; O’Connor, 2003). Winant (2000) suggests that the hegemonic social structure of post-racial liberalism developed out of the decreasing motivation for sustaining anti-racist political agendas in the years after the civil rights revolutions. Smrekar and Goldring (2009) found with the end of court-ordered desegregation (because districts are obtaining unitary status) there was a decrease in focus on race and ethnicity criteria, as well as decreasing political support for allocating public resources to achieve racial integration. The post-racial liberalism of the colorblind era developed rhetoric that suggested the social structure of the U.S. was one of racial transcendence, and shifted its focus on ameliorating racial inequality toward economic and class based differences. Sociologist William Julius Wilson’s *The Declining Significance of Race* is an example of the post-racial liberalism rhetoric.

The hegemonic racial social structure of post-racial liberalism and the colorblind era gave aid to the rise and re-grouping of the political right—neo-liberals. The neo-liberal racial formation project developed into the contemporary hegemonic racial social structure, that replaced the racial equality oriented social structure with the current one that is class based (Winant, 2000, Wise, 2005, 2010; Bonilla-Silva, 2001; Doane, 2003). “National trends suggest that the degree of cross-racial exposure (or racial integration) in public schools has declined since the 1990s.” (Claire & Goldring, p. xv). Educational choice has created a push for neighborhood schools, which due to residential segregation would undo much of the previous work towards integration (Smrekar & Goldring, 2009). I argue that the combination of the neo-liberal policy shift of ‘choice’ in education and the housing-based economic growth project is a latent consequence of the current hegemonic racial social structure that focuses on class instead

of race, ignoring the re-segregation of public schools, and re-instituting racial inequality in the structure of class based social differences (Wise, 2010; Morrow & Torres, 1995).³

The Reagan and Bush administrations in the 1980s and early 1990s operated under the current racial social structure and promoted the adoption of its views by most whites: 1) the belief that the civil rights revolution was successful, 2) if vestiges of racial inequality still exist, it is because blacks have failed to take advantage of their civil rights revolution opportunities, and 3) most think the U.S. is becoming a color blind society, and see little justification for Affirmative Action policies (Brown, et. al., 2003). In Michael K. Brown's *Whitewashing Race* (2003) people adopting these beliefs are called racial realists (neo-liberals). Racial realists do not support social welfare policies. They believe social welfare programs make blacks lazy and ruin their values. In their view, racial progress can be best achieved by free market competition. The consequence of the public's new understanding of race and racial social issues that developed in the 1970s and into the 1980s, helped give rise to the modern conservatives—neo-liberals (Brown, et. al., 2003). Described variously as the new racism, colorblind racism, or laissez-faire racism, the logic of the new racial understanding asserts race neutral contexts into a system of persisting racial inequality across a range of social institutions (Lewis, 2003). “As a racial formation project, color-blindness serves as protection for the existing unequal distribution of resources and as a justification for ending what few programs still exist to try and address racial inequality” (Lewis [2003], p. 161).

Maintaining inferior schools for blacks would provide a means of maintaining racial inequality under a laissez faire system. Blacks could not “pull themselves up by their bootstraps” because they cannot acquire the cultural capital necessary to do so. This is where school choice could pose a contradiction if it allows black students to attend good schools.

Color-blind ideology naturalizes the unequal outcome of the contemporary racial social structure, particularly the whiteness of many social collectives with privilege (Lewis, 2003). Educational choice programs and options allow inequality to exist, because choice ideology accepts unequal outcomes as natural. What neo-liberals often ignore in the class based race-

³ Housing based economic growth projects in the post-war period were designed to increase access to, and the affordability of, homeownership. During this period the government subsidized housing construction and development, which led to the creation of suburban communities.

neutral politics of today is the fact that the past shapes contemporary patterns of inequality (Brown, et. al., 2003). “According to conservatives, public schools have failed to educate African Americans because teachers, school administrators, and politicians are wedded to a liberal ideology that is too “subjective” (Brown, et. al., 2003).

Heather B. Johnson and Thomas M. Shapiro’s (2009) qualitative study on residential selection found the racial composition of a neighborhood to be a central focus in the decision making process for whites when purchasing a home. “The community and school decisions made by parents are highly structured in a context of systematic socioeconomic and educational inequality” (Johnson & Shapiro, 2003). Most Americans view segregation as an unfortunate thing of the past, and that the decisions on where to reside today are comfort decisions (e.g., “people choose to live by people like them”) (Massey & Denton, 1993). In their 1993 book *American Apartheid* Douglas S. Massey and Nancy A. Denton argue that residential segregation is instrumental in creating a structural niche. A family’s decision on where to live based on school and neighborhood composition often perpetuates inequality by transmitting advantage or disadvantage to the next generation, thereby contributing to the reproduction of social stratification (Johnson & Shapiro, 2003; Bourdieu, 1989; Massey & Denton, 1993). Johnson and Shapiro argue that the role that individuals “choices” play in the social reproduction of stratification looms large in contemporary society. For the vast majority of families searching for a “good” neighborhood, good is referencing the quality of the local schools—in the context of the contemporary racial social structure (the race-neutral or color-blind era). In essence, “good” means white (Bonilla-Silva, 2001; Johnson & Shapiro, 2003; Brown, et. al., 2003). In turn, the superior school systems and neighborhood resources resulting from such socially exclusionary action (residential segregation) creates and perpetuates racial inequality in education (Johnson & Shapiro, 2003; Massey & Denton, 1993). In sum, the maintenance and growth of black-white residential segregation combined with geographic school assignment policies negates the earlier attempts to achieve racially integrated schools.

“Most whites do not challenge structural inequality or aspects of it such as systematic school districting and funding that maintains inequality. Rather they participate, and are rewarded for doing so—often through the unearned benefits of “simply being white” (Johnson & Shapiro, 2003). This position is especially true for the wealthy white population, but it is also important to note that there is also a large section of the white population that is disadvantaged as

well. Literature on the contemporary racial social structure illustrates the “naturalness” of contemporary racial inequality in that everyone has the opportunity to make decisions that affect their social status. Again, what is often forgotten is the legacy of sustained social disadvantage created by past forms of racial inequality. Legal forms of racial segregation have been outlawed and rejected by most Americans. However, through an examination of contemporary inequalities in education and housing, for example, it is clear that the color line still plagues American society. The only difference today is that race is not explicitly used in its description. The color-blind era has made racial inequality “natural.”

Uneven Development

Residential segregation significantly impacts the racial distribution of students within a district’s schools. The “preferences perspective” is often cited in the explanation of why residential segregation occurs. Implicating the role and principles of the free market, the “preferences perspective” justifies the residential segregation of classes, races, ethnic groups, and land uses (Fox-Gotham, 2002). This perspective ignores both class and racial conflict in the processes of land acquisition, determination of specific land use decisions, and the spatial development of a metropolitan area (Smith & Feagin, 1995; Feagin & Parker, 1990; Feagin, 1998; Fox-Gotham, 2002).

The racialization of space, a contemporary social issue that did not develop until the start of the 20th century, was developed by the National Association of Real Estate Boards (NAREB) to promote rapid and continuous turnover in the housing market to maximize profitability (Fox-Gotham, 2002; Weiss, 1987). The NAREB published and distributed ideological race literature that suggested the movement of blacks into white neighborhoods would result in depreciating home values, rising crime rates, and other undesirable social issues, which encouraged white flight at the threat of integration (Fox-Gotham, 2002). “Over time the connection between race and place became an important impetus and justification for maintaining the color line in housing, for disinvesting in racially mixed and nonwhite areas, and for directing investment resources into racially homogeneous, all-white neighborhoods” (Fox-Gotham, 2002, p. 37).

In their book *American Apartheid* (1993) Denton and Massey stated, “They [most Americans] view segregation as an unfortunate holdover from a racist past, one that is fading progressively over time” (p. 1). Research suggests that the racial isolation of blacks is a

structural inequality and not a preference, as suggested by the preference perspective, which is identifiable by pro-segregation housing policies developed in the 20th century (Denton & Massey, 1993; Fox-Gotham, 2002). Myrdal (1962) found the isolation suffered by blacks through the structural inequalities of residential segregation affected the black community's access to social resources such as educational facilities, hospital accessibility, and proximity to fire and police, among other services. According to decennial census statistics and court records, Topeka had a high incidence of racial isolation because of residential segregation (Oliver Brown, et. al. v. Board of Education 1998; U.S. Census Bureau, 2000). Racial spatial isolation can be measured using the index of dissimilarity, which measures the percentage of the population that would need to move in order to create a racial balance in given geographic area (Denton & Massey, 1993; Fox-Gotham, 2002).

Some scholars argue that white flight was the product of pull factors that were not as much racially motivated as socially motivated by the prospect of social mobility and status factors associated by ones' location (Feagin, 1998; Gottdiener, 1994; Frey, 1979). This position suggests that economic policies of the post-war period that promoted the expansion of housing development and individual homeownership, also facilitated white flight, increasing black-white residential segregation. This was not entirely racially motivated, but was partially due to individuals' desires to live in racially homogenous neighborhoods. While this position on increasing residential segregation in the 20th century is certainly true in some regards, the increasing spatial separation of races occurring in this time period is not without merit—as supported by the contemporary race literature (Bonilla-Silva, 2001; Johnson & Shapiro, 2003; Denton & Massey, 1993; Fox-Gotham, 2002; Doane, 2003).

In the next section I discuss the concepts of Social Reproduction Theory (SRT) into the explanation of how inequality is created and reproduced through the education system. I also discuss contemporary sociological theories on race, which is used to explain the potential causes for the decline in white enrollment in the district. Then, I synthesize the educational choice policy agenda and its effect on public education.

Social Reproduction Theory

Social Reproduction Theory (SRT) examines the processes through which the structures of inequality are maintained and reproduced, limiting upward mobility. Social reproduction

theorists exploring the reproduction of social relations within capitalist societies are perpetually led to the organizational structure of schools within society. As illustrated in Jay MacLeod's (2009) "Ain't No Makin' It," there is a widespread belief that schools are the great equalizer of social inequalities. Schools are believed to be a place where both the weak and the strong compete on a level playing field. However, as noted by Wise (2005:39), the opposite is true, "schooling in the United States has always been constructed to maintain existing hierarchies and divisions, with regard to not only race but also class status."

Bowles and Gintis (1979) place emphasis on the correspondence between social actors within the educational structure, and attribute the power interactions between these actors to be the socially reproducing relationships of inequality. In their theory, the interaction of social actors in the educational structure develops concomitantly with the division of labor relationships of capitalist societies. The line of reasoning developed by Bowles and Gintis illustrates the influential role that schools have in shaping society's youth. The reproduction of the contemporary class structure develops through the social interactions that occur in the educational system (e.g., learning to follow orders in schools prepares individuals to follow orders in the labor structure).

Similarly, Jonathan Kozol's "Savage Inequalities" reaffirms the role of "correspondence" in shaping the social structure and maintaining social inequalities. Kozol's 1992 investigation into the physical and social conditions of public schools in cities across the country identifies the inequality producing structure of many schools as being situated along racial lines. In more than one example in his investigation, the resource deficiencies that existed between schools were the result of socially reproductive action in educational choice—parents removing their children from metropolitan public schools and enrolling them in private or near-private alternatives (e.g., highly segregated suburban school districts) (Kozol, 1992).

In many instances, the class based relationships in the organization of education depicted by Bowles and Gintis were found to operate primarily along racial strata—this division also encompasses class. Accordingly, MacLeod (2009) stated, "the American educational system functions at an ideological level to promote the attitudes and values required by a capitalist economy. Children of workers attend schools and are placed into educational tracks, both of which emphasize conformity and docility and prepare them for low status jobs. By contrast, the sons and daughters of the elite are invited to study at their own pace under loose supervision, to

make independent decisions, and to internalize social norms—all of which prepares them to boss rather than to be bossed” (p. 13; Apple, 2006; Collins, 2009).

SRT theorist Pierre Bourdieu developed the concept of cultural capital to explain how privilege, knowledge, and skills are transmitted from one generation to the next. This provides the centerpiece of MacLeod’s (2009) theory of cultural reproduction. The theory of cultural capital is centered around four main points: the transmission of social privilege, 2) the promotion of upper class ideals and the repudiation of those produced in the lower class by the education system, 3) accepting the meritocratic principles instilled in the education system in return for economic success, and 4) the reproduction of social hierarchies by schools (MacLeod, 2009). Bourdieu also developed the idea of the habitus, which represents one’s self-identified position within the social structure that shapes our decisions and aspirations, and in turn affects the individual’s social status. Bourdieu attributes a great portion of the reproductive attitude replication among members of a particular class to the concept of the habitus (Bourdieu, 1989). Patricia Hill Collins’ recollection of her position within her school’s social structure as a minority is an example of the habitus. It is what allowed her to identify her ascribed position within the social structure and influenced her actions (Bourdieu, 1989; Collins, 2009; MacLeod, 2009). In Collins’ reflection of her status as a racial minority in a predominantly white school, she speaks of an occurrence where she was asked to write a speech for a public forum on equality and freedom in America. However, the constraint of her status as a racial minority in a predominantly white educational structure restricted her ability to speak freely on “freedom” and “equality”—an example of Bourdieu’s habitus (Collins, 2009).

Cultural differences between racial groups have also been identified as a source of differentiation in educational attainment. The claim that educational inequalities are caused by the interaction of cultural identities that differ from institutional norms is known as Cultural Conflict Theory. Cultural Conflict Theory attributes the historically poor educational achievement and skills of black students to their being raised in a culture that differs from that of mainstream white culture (Hallinan, 2001). “Discontinuities between the cultural conditions of African American families and the culture of schools their children attend, such as differences in language use, makes it hard for blacks” (Gamoran, 2001). Building on aspects of Cultural Conflict Theory, Bankston and Caldas (1996) find that the percentage of minority concentration in a school has a negative effect on student achievement. Bankston and Caldas (1996) stated,

“this negative influence may simply be the result of continual social, economic, and educational handicaps imposed on minority students by the dominant society” (p. 552). The purpose of integration was not only to develop the physical and financial resources available for black children, but also to enable a means for them to share in the social and socio-psychological experiences of their white counterparts (Hacker, 1995).

Conversely it has been suggested that a concentration of cultural others would be likely to promote group solidarity, which should enhance the interest of the students and improve their academic performance. However, a black school board member in Kansas City implied that holding the doctrine that black children stood to benefit from integration with whites is to say that black are inherently inferior (Bankston & Caldas, 1996; Holmes, 1995). In their investigation into the consequences of minority concentration in schools, Bankston and Caldas (1996) found: 1) African Americans have lower measures of academic success and achievement in minority concentrated schools. However, this relationship was not found to be attributable to the cultural characteristics of individuals or their families; 2) de facto segregation was a disadvantage above and beyond the racial status of the student; 3) minority concentration exercised a negative influence independent of the behavior patterns exhibited by students, as well as the socioeconomic levels of the schools; and, 4) blacks are the most affected by the concentration of minorities. Their findings discredit the notion of racial/cultural concentration’s ability to promote academic achievement, further illustrating the importance of balance in the racial distribution of students within schools.

School Choice

In the late 1980s and early 1990s, a shift occurred in the paradigm of public education in the U.S toward a new policy agenda based on school choice.⁴ The National Governor’s Association publicly endorsed school choice in 1986 as a goal of the public education system. In 1989, President George H. Bush and the fifty governors agreed on making choice a major facet of the nation’s educational policy agenda (Hseih & Shen, 2001). Research on the effects of choice enrollment programs on social inequality suggests that when allowed, choice policies

⁴ School choice policies are designed to increase the number of options parents have in selecting schools for their children. School choice policies utilize market ideals to create a competitive environment amongst schools, in an attempt to continually drive improvements in the education system.

have the potential to increase inequality (Jimerson, 2002). Ironically many of the color-blind racial discourses, such as school choice, gained prominence just as many institutions started their attempts to ameliorate racial inequality (Lewis, 2003). According to Lewis (2003) such policies are, “the ideological weaponry of post-civil rights racial projects...with important implications for the life chances of those still confronting the historical legacy and current manifestations of white supremacy in the U.S.” (p. 161). Over the next few paragraphs I integrate the research on the school choice policy shift with SRT to illustrate their relationship in reproducing social inequality through the education system.

Developing the ideas of Robert Nozick, Bankston and Caldas (1996) stated, “since all resources, immaterial as well as material, belong to individuals and their families, parents have the right to invest and pool these resources as they see fit, and to educate their own children with an eye specifically toward maximizing their children’s own opportunities” (p. 536). The development of the educational system in the post-war era as both a private and public policy matter contributed to the changing views on education, which viewed education as the primary conduit for national economic growth—economists coined the term “human capital” to denote the growing role of education in the economy (Rury, 2005). Around 1990 there was a neo-liberal shift in educational policy that strived to increase choice in school selection. Based on capitalist market ideals, it was believed that the competition effect of choice would inevitably improve schools.

According to Kenneth Saltman (2000), “the current phase of capitalism is dominated by neo-liberal imperatives for privatization, the liberalization of trade, and the contingent faith in the market as a universal solution to all social problems” (p. ix). Concomitant to the neo-liberal policy shift, the effort to create choice in school selection became one of the central themes in education, much of which was grounded in market theory-based strategies in school selection (Schneider & Buckley, 2002). Choice theorists Chubb and Moe (1990) suggested the quality of education lays in its organization, and that the current institutions of bureaucracy involved in public education is the true fault of the contemporary system. “Adherents of market ideology consider all human behavior to be self seeking and believe that the best social arrangements emerge spontaneously when people, institutions, and firms compete against each other in an open market place” (Fowler [2002], p. 5). Similar ideals exist in the work of Bowles and Gintis (1976) when they stated, “an essential element in their perspective of schooling is that groups of

students, sorted largely on race and class differences, receive treatments that result not only in cognitive outcomes, but in non-cognitive outcome differences as well...the strengthening in students of the appropriate attitudes results from a process termed the “legitimizing of inequality”” (Oakes, 1982). The legitimating process is what leads students to accept the unequal structure of society as natural, which simultaneously supports market ideals in the educational structure that come with choice.

Valerie Ledwith’s (2010) research into the effect of school choice and academic achievement in Los Angeles, Calif., found choice to have a positive impact on the local school system. In her results, Ledwith cautions about the unrestricted progression of choice development, because choice also has the potential to isolate the most marginal students into hollowed-out schools and school districts increasing social inequality (Ledwith, 2010).

Proponents of market theories in school selection suggest choice pressures schools to compete to improve the education they provide, which would be an optimal method for improving the educational system as a whole. However, with school demographics being a major contributor to the decision process there is an increased likelihood of increasing racial and socioeconomic segregation (Schneider & Buckley, 2002). In sum, choice promotes competition, which should improve the quality of education available. However, with racial composition affecting the school decisions of parents, there is a greater chance of marginalization of lower classes, which are primarily composed of racial and ethnic minorities that do not possess the cultural or economic resources necessary to utilize educational choice opportunities.

In Kansas, the KDE allows the transfer of students between school districts to occur at the discretion of the participating district’s boards of education; the participating boards must meet to decide whether or not to allow the transfers to occur (K.S.A. 72-8233). However, if a student resides within USD 501, any within district transfer between schools allowed only enables the student to attend their new institution until the completion of the highest grade at the assigned school, or until a new transfer is approved (BOE Policy 8025). USD 501 also allows intra-district Majority-Minority transfers, which allows white students to transfer to other schools in the district that have a higher concentration of minorities, promoting racial integration and diversity. But if there were an increase in the number of inter-district transfers that occurred following the plan’s implementation, then educational choice would be an explanation for the declining white enrollment.

The next section details contemporary issues in school integration, school choice, and market theory in developing choice models in education. I specifically focus on contemporary issues in the Memphis, Tenn. and Wake County North Carolina public school districts, where recent attempts to create or maintain racial balance, or imbalance, and diversity policies in public schools have led to civil and political dispute.

Contemporary Issues in Racial Integration and School Choice

Recent headlines in Memphis, Tennessee, illustrate the continuing significance of race in the American educational systems struggle to achieve racial equity through integrating public schools. In Memphis, the majority-black Memphis City Schools District (MCSD) is attempting a forced merger with the majority-white county school district—Shelby County Schools (SCSD). On March 8, 2011, Memphis voters decided to dissolve the MCSD school board, turning responsibility of its schools over to the county. National media outlets reported, “the fight over the fate of 150,000 public school students has stirred long-festered emotions in Memphis and surrounding Shelby County, creating a drama that has spread beyond school board meetings to union rallies, the state legislature, and federal court” (Sainz, 2011). However, some Memphis residents questioned the decision of the MCSD board to surrender the district to the county. One employee of the MCSD declared the district’s concession to be in the background, declaring race to be the real issue (Sainz, 2011). Similarly, religious leaders in the area joined the debate stating that the issue at hand is more than a political, economic, or educational issue...this is a civil rights issue, a justice issue, and a moral issue (Waters, 2011).

The MCSD board previously attempted to drop its charter in 1990 to force integration, but fell just one vote short. The effort in 1990 almost led the residents of Shelby County to develop their own county outside of the city limits—Neshoba (Thomas, 2011). Then, as is the case now, MCSD’s board of education believes the consolidation of the two districts will “unify the community” (Thomas, 2011). Conservatives challenge the notion of consolidation being the panacea for the disparities that exist between the two districts, claiming the merger will overstretch the resources of the two school district and both sides will lose. Suburban leaders suggest that the merger of the two school districts is the latest attempt to merge Memphis and Shelby County governments, but city officials have denounced that claim (Bailey, 2011).

The recent edition of the dispute over consolidation began in November 2010, when Shelby County Republicans attempted to obtain a special status for its county schools to block any attempts at a future merger between the districts (Sainz, 2011). Special status would give the county school district autonomy and protect its tax base, by locking in its boundaries—this would cut \$100 million from the city school system (Sainz, 2011). “We’re already a divided community in terms of racial polarization”, said Tom Word, who is white and a parent of three children in Memphis public schools. “That would further exacerbate that division” (Sainz, 2011). Opponents of the consolidation for monetary reasons have cited cultural differences between the districts as the bifurcating cause of disparity (Smith, 2011).

School integration in Memphis began in 1961. Once integration began many whites left the city for the suburbs or put their children in private schools, essentially re-segregating the metropolitan school system (Sainz, 2011). Myron Lowery, a prominent African American official, invoked the language of segregation suggesting opponents of the consolidation want the two school systems to be “separate but equal” (Sainz, 2011).

In sum, the exodus of whites into the suburban areas of the county after the initial attempt to racially integrate the MCSD is an example of a social reproductive action taken to maintain racial privilege and status through isolation. The racial isolation created by the exodus was an attempt on the part of the white population to maintain separate educational facilities for their children. The result of their actions led to performance disparities between the two districts—county schools receiving higher grades in almost every measured category. Bourdieu’s concept of cultural capital is clearly illustrated through the transmission of privilege and status to the county school district that opposes the consolidation. By all accounts, the issues plaguing the MCSD and SCSD merger are based on issues of race.

Memphis and Topeka are similar in that residential segregation is a factor that affected the effort to racially integrate the public school systems. In Topeka, as in Memphis, once ordered to initiate the desegregation process, whites began moving into the suburbs in an attempt to avoid integration. However, integration developed differently in Topeka, because the city eventually annexed the areas where whites had moved, ultimately extending the boundary of the district.

Conversely, Wake County North Carolina may see its public education system give way to privatization. Two bills currently working their way through the state legislature have the potential to dramatically change the public education system: 1) a public charter school bill,

which seems likely to pass, and 2) House Bill 41 – the Tax Fairness in Education bill. The charter schools bill, if passed, will increase the cap on the number of charter schools in the state and also make it easier to open them (WUNC, 2011). House Bill 41 on the other hand will give a tax credit to families that take their children out of public school and put them in private ones (WUNC, 2011).

Representatives of the U.S. Department of Education’s Office of Civil Rights were dispatched to investigate the recently elected Republican majority board’s decision to eliminate a policy considering socioeconomic diversity in student assignment—a policy designed to prevent urban-suburban educational disparity in Wake County (Sturgis, 2010). The board’s new policy aims to let schools return to “neighborhood schools,” which would re-assign nearly 6,000 students now living in urban and historically black neighborhoods—most of whom are bused to white suburban districts—back to their neighborhood schools (Sturgis, 2010).

The top contributor in the state’s anti-diversity candidates, in the most recent elections is Wake County businessman Bob Luddy (Sturgis, 2010). Luddy, a conservative businessman operating one of the Wake County charter schools, says that public schools are failing. Luddy’s approach to education clearly supports the neo-liberal market ideal in school selection. When charged with being a segregationist, Luddy stated, “I don’t think there’s very many segregationist in our society today. The idea is to give people choices. If those choices lead to a higher level of minorities in a particular school or a particular room, then I think that’s fine, if the choice was made by the parents. If the choice was made by the bureaucrats, then I think it’s not fine” (WUNC, 2011).

Jo Ann Norris, a public school advocate and long time teacher in Wake County public schools, suggests that the business model doesn’t work in education. Norris stated, “number one, you are dealing with children, not commodities. Let’s hope we never think of our children as commodities” (WUNC, 2011). According to Norris, if market theory business models are allowed to shape the educational landscape, too many children will be left behind. Like the opponents of the two bills, Collins (2009) believes that public schools are an essential institution for ensuring democracy and governmental accountability.

Charter schools were originally thought to be alternatives to private schools that would prevent racial segregation. However, because of their wider acceptance area for students, charter schools have been found to be a driving force in the re-segregation of the U.S. education system

(Sturgis, 2010). Charter school students are more likely to attend racially isolated schools. This is especially true for black children, who more often than not attend institutions where three in four students are black (Miron, et. al., 2010).

The current issues of the North Carolina public school system are examples of the potential consequences of the neo-liberal policy shift in education that eliminate diversity policies. The recent policies developed to establish more educational choice in North Carolina would undoubtedly increase racial segregation and isolation in the public education system. The educational issues in Wake County North Carolina and Memphis, Tenn., are examples of the neo-liberal policy shift in education, both of which are economic and class based policies in education that will have a substantial impact on the demographic composition of the public schools. Consistent with the neo-liberal policy shift, race is essentially ignored by the policy changes in both cities.

In Topeka, the public school district USD 501 took its initial steps towards integrating in 1953—after the appeal was filed with the Supreme Court and before the 1955 mandate. School integration developed slowly, stagnating at times, until the approval and implementation of the 1994 desegregation plan. The decline in white enrollment immediately following the plans implementation coincides with the development of educational choice policies, which may have facilitated the decline of white enrollment. This thesis intends to explain the delay in the development and implementation of a desegregation plan by examining court records from the 1989 case against the district for failure to create an adequate desegregation plan. Then, I investigate the effects of the 1994 desegregation plans inception in the district by conducting a secondary data analysis of the KDE statistics on USD 501 after the 1994-95 academic year. Then Chapter Five will summarize the research findings and conclusions, which is followed by a brief discussion of future implications for education based on the USD 501 case study.

Chapter 3 - History of Desegregation in Topeka (USD 501)

In this chapter I address the first question of this thesis as well as its accompanying questions by first discussing the beginning of racial segregation as a legal social issue. I start with a brief synopsis of the legality of racial segregation with a specific focus on the Topeka public school district, USD 501, because it was the lead case in the Supreme Court ruling on segregation in public education and serves as the focal point of this case study. I then follow the historical synopsis by establishing a definition for desegregation based on the parameters of the 1955 court order. I then dedicate a section to describing the population characteristics of Topeka, and the spatial development of the city during phase-I of desegregation, (1954-1989). After defining what desegregation is, as it pertains to public education, I examine the actions of the district following the 1955 case up until the 1989 Appellate Court case to determine what desegregation looked like in USD 501. Then, I conduct a comparative examination between the desegregation process that occurred in USD 501 based and the standards set by the Supreme Court in 1955, and assess why the Appellate Court decided the district's efforts were insufficient. I then conclude Chapter Three by answering the previously discussed questions, why an adequate, court approved, desegregation plan was not completed until nearly forty years after the original ruling. A brief discussion of the findings in this chapter then leads into Chapter Four, which examines the second phase of desegregation for USD 501 (phase-II—1990 to present), picking up where this chapter ends.

The legal process of desegregating public schools began in 1951 in Topeka, Kansas. Linda Brown, a black student, attempted to enroll in an all white school five blocks from her home. Prior to 1954, a Kansas statute permitted the legal segregation of white and black children below the high school level (Brown, et. al., v. Board, 1989). When the district denied her request, Brown was forced to enroll in an all black school twenty blocks from her home. Disgruntled, Brown's father and twelve other plaintiffs filed suit against the district in a Federal court in Topeka in 1951. Following the precedent established in *Plessy v. Ferguson*, the Federal district court upheld USD 501's decision to maintain a racially segregated school system.

The ensuing appeal to the U.S. Supreme Court led to the landmark decision in 1954, formally ending the legal racial segregation of public schools. In that decision Chief Justice Warren gave the opinion of the court dissenting that in education "separate is not equal," and the

“separate but equal doctrine” has no place in education (U.S. Supreme Court, 1954). Then in 1955, the Supreme Court ordered the subsequent desegregation of all public schools to proceed “with all deliberate speed.”

The legal challenge of racial segregation in USD 501, and public education in general, began when a few Black citizens in Topeka filed a suit questioning the constitutionality of the segregated school system in 1951. In response to the 1951 motion against the legality of the district’s segregated school policy, and just prior to the Supreme Court hearing (*Brown I*), USD 501 began dissolving its segregated system by permitting a limited number of black students to attend formerly all white schools (Brown, et. al., v. Board, 1989). In the continuation of the original case, *Brown II*, the Supreme Court evaluated the district’s desegregation efforts prior to the decision in *Brown I* and described the district’s plan as “a good faith effort to bring about full desegregation in Topeka Schools in full compliance with the mandate of the Supreme Court” (Brown, et. al., v. Board, 1989). However, the court did not believe the district’s efforts were substantial enough to warrant granting the district unitary status⁵, and therefore retained its jurisdiction over the district in the desegregation process.

The opinion and judgments from *Brown II* were given on May 31, 1955. The resulting syllabus of mandates included but was not limited to the following: 1) “Racial discrimination is unconstitutional,” all public school districts have to yield to this principle; 2) The cases are remanded to the District Courts to ensure the parties enforcing the ruling with all deliberate speed: a) “School authorities have the primary responsibility for elucidating, assessing and solving the varied local school problems which may require solution in fully implementing the governing constitutional principles”; b) “Courts will have to consider whether the action of school authorities constitutes good faith implementation of the governing constitutional principles”; d) “In fashioning and effectuating the decrees, the courts will be guided by equitable principles -- characterized by a practical flexibility in shaping remedies and a facility for adjusting and reconciling public and private needs”; f) “Courts of equity may properly take into account the public interest in the elimination in a systematic and effective manner of a variety of

⁵ Unitary status is the term used by the courts to describe school districts that had once been under court supervision to desegregate, but have since proven that they no longer operate a dual-system (segregation) and have eliminated the vestiges of inequality created by the previously segregated system. In sum, unitary status means the school district has made sufficient progress in its efforts to facilitate integration.

obstacles in making the transition to school systems operated in accordance with the constitutional principles enunciated in 347 U. S. 347 U.S. 483, 347 U. S. 497; but the vitality of these constitutional principles cannot be allowed to yield simply because of disagreement with them”; g) “While giving weight to these public and private considerations, the courts will require that the defendants make a prompt and reasonable start toward full compliance with the ruling of this Court”; k) “The courts will also consider the adequacy of any plans the defendants may propose to meet these problems and to effectuate a transition to a racially nondiscriminatory school system”; and i) “During the period of transition, the courts will retain jurisdiction of these cases” (Brown v. Board of Education of Topeka, 1955). The mandates of the desegregation order of the Supreme Court provided a general outline for the manner in which public school districts were to proceed with desegregation, but most importantly it allowed the proceedings to occur in an equitable fashion to accommodate both public and private interests (Brown v. Board of Education of Topeka, 1955). Therefore, the definition of desegregation as it was provided to the District Courts per the mandates of the 1955 order to desegregate required the disbandment of all formal policies that enforce, allow, or facilitate the legal separation of races in public school districts. The complete list of the 1955 desegregation guidelines can be seen below in table 3.1 below.

Table 3.1 Guidelines for Desegregating as per the 1955 Supreme Court Mandate (Source: Brown, Et. Al., v. Board Of Education Topeka, 1955)

<p><i>The judgments below (except that in the Delaware case) are reversed and the cases are remanded to the District Courts to take such proceedings and enter such orders and decrees consistent with this opinion as are necessary and proper to admit the parties to these cases to public schools on a racially nondiscriminatory basis with all deliberate speed. P. 301</i></p>	
a)	School authorities have the primary responsibility for elucidating, assessing and solving the varied local school problems which may require solution in fully implementing the governing constitutional principles. P. 299.
b)	Courts will have to consider whether the action of school authorities constitutes good faith implementation of the governing constitutional principles. P. 299.
c)	Because of their proximity to local conditions and the possible need for further hearings, the courts which originally heard these cases can best perform this judicial appraisal. P. 299.
d)	In fashioning and effectuating the decrees, the courts will be guided by equitable principles - characterized by a practical flexibility in shaping remedies and a facility for adjusting and reconciling public and private needs. P. 300.
e)	At stake is the personal interest of the plaintiffs in admission to public schools as soon as practicable on a nondiscriminatory basis. P. 300.
f)	Courts of equity may properly take into account the public interest in the elimination in a systematic and effective manner of a variety of obstacles in making the transition to school systems operated in accordance with the constitutional principles enunciated in 347 U.S. 483, 497 ; but the vitality of these constitutional principles cannot be allowed to yield simply because of disagreement with them. P. 300.
g)	While giving weight to these public and private considerations, the courts will require that the defendants make a prompt and reasonable start toward full compliance with the ruling of this Court. P. 300.
h)	Once such a start has been made, the courts may find that additional time is necessary to carry out the ruling in an effective manner. P. 300.
i)	The burden rests on the defendants to establish that additional time is necessary in the public interest and is consistent with good faith compliance at the earliest practicable date. P. 300.
j)	The courts may consider problems related to administration, arising from the physical condition of the school plant, the school transportation system, personnel, revision of school districts and attendance areas into compact units to achieve a system of determining admission to the public schools on a nonracial basis, and revision of local laws and regulations which may be necessary in solving the foregoing problems. Pp. 300-301.
k)	The courts will also consider the adequacy of any plans the defendants may propose to meet these problems and to effectuate a transition to a racially nondiscriminatory school system. P. 301.
l)	During the period of transition, the courts will retain jurisdiction of these cases. P. 301.

In sum, the specific orders from the 1955 Supreme Court mandate to desegregate left much of the desegregation process to the discretion of the supervising District Courts. Therefore, the guidelines listed above in Table 3.1 worked more towards structuring the interactions that were to occur in the desegregation process between the courts and the school districts to facilitate the desegregation process, rather than producing the structural guidelines for assessing a district's progress towards desegregating. The lack of structural guidelines for assessing a school district's progress towards achieving unitary status later influences the decision of the Topeka District Court in 1987 regarding the district's efforts in the desegregation process.

Now that a definition of desegregation has been established based on the mandates of the *Brown II*, I attempt to determine what desegregation (as a process) looks like. But first let's look ahead to the 1987 decision by District Court Judge Richard Rogers. It is safe to assume that the District Court presiding over the desegregation case for USD 501 believed the district to be making a good faith effort to follow the order as per the 1955 mandates. Therefore, an examination of the district's proceedings, in their effort to follow the mandates set forth by the Supreme Court, provides an example of what desegregation looked like to the District Court based on the 1955 guidelines. Looking ahead further into desegregation as it relates to USD 501, to the decision of the Tenth Circuit of Appeals Court in the 1989 appeal of Judge Rogers 1987 decision⁶, it is clear that the definition and or the requirements of the desegregation process changes between the 1955 and 1989 hearings. Therefore we know that there were two distinct phases of the desegregation that occurred in USD 501. More importantly, an investigation of the district's actions and attempts to follow the original mandate(s) of the court answers the questions of whether or not desegregation occurred and why there was a 40 year delay in the development of a desegregation plan. To answer these questions I first look at the population characteristics of Topeka, which allows for better insight into the development of the city and the demographic composition of its citizens. Then, I examine the changes that occurred in the district between the 1950s and the 1989 appeal of the 1987 Judge Rodgers decision that found the school

⁶ Brown, Et. Al. v. Board of Education Topeka, 1989 appealed the 1987 decision of the Topeka District Court, which found the district to have been compliant with the 1955 mandates guidelines to eliminate the 'intent' to discriminate by the district. Due to developments in the desegregation of public schools since *Brown II*, on appeal, the Tenth Circuit of Appeals Court overturned the District court's ruling stating that the district erred in its focus on the intent to discriminate.

to have complied with the 1955 Supreme Court order. The subsequent examinations cover the first phase of desegregation (1955-1989; phase-I) for USD 501, and also answers the first of the two thesis questions.

Topeka's Population Characteristics

According to court records, "In 1950, Topeka's population was approximately ten percent black. While Topeka's population grew significantly until 1970 and then later dropped, the black percentage of the population remained approximately the same (Brown, et. al., v. Board of Education Topeka, 1989, p. 6). According to case records the black and minority population in Topeka schools was greater than the black and minority population of Topeka itself, and was continuing to rise as of 1989. In 1952, 8.4% of Topeka students were black and 11.6% were minority, and by the time of the 1989 hearing the number of black and minority students had risen to 14.7% and 20.9%, respectively (Brown, et. al., v. Board of Education Topeka, 1989).

The distribution of Topeka's population changed more than its composition between the cases. The city saw significant expansions to its west-side, which led to population declines in the central sections of Topeka. Up until the late 1980s and into the early 1990s the west side of Topeka was almost exclusively white. During this same time period the black population had only just begun to spread from the city's central districts into the eastern and western sections of the city; "The black population of Topeka was concentrated in a few areas in the center of the city in the 1950s; it has since spread widely throughout the eastern part of the city and has gradually begun to move into the western side of Topeka" (Brown, et. al., v. Board of Education Topeka, 1989, p. 6). This leads to the question of uneven development as a potential source of the delay in desegregating in Topeka, and according to 1989 case records, there was an uneven spatial development occurring in Topeka between 1950 and 1990, which incorporated a residential segregation of city's black and white populations (Brown, et. al., v. Board of Education Topeka, 1989).

Now that I have established a parameter of the population characteristics of both the black and white populations of Topeka from 1950 to 1989, I now focus on the changes that specifically occurred within the district during this time period. In the next section I examine the changes that occurred in the district during phase-I of desegregation, and answer the questions of

whether or not desegregation occurred—according to the 1955 standards discussed earlier, what desegregation looked like in USD 501 (the district’s response), and why it took 40 years after the original case to start to develop and implement the 1994 court approved desegregation plan.

Changes in the District (USD 501) from the 1950s to the Present

In 1951, Topeka had eighteen elementary schools for white children compared to just four for blacks. In this system black children were bused to their assigned school, whereas whites attended neighborhoods schools (Brown, et. al., v. Board of Education Topeka, 1989). In the same year as the 1955 order to desegregate, USD 501 submitted a partial-plan approved by the district court where it proposed to open all elementary schools to neighborhood enrollment assignments by 1956. However, this general overhaul to the district’s school attendance policy left three schools remaining “all or virtually all-black” (Brown, et. al., v. Board of Education Topeka, 1989).

In the late 1950s, the district acquired new schools through annexation along with other territories along the district’s edge. However, the newly acquired schools were already either primarily white or primarily black which further complicated the district’s efforts in desegregating (Brown, et. al., v. Board of Education Topeka, 1989). Shortly after the acquisition of the annexed schools and territories the population in Topeka began to shift and the district responded by closing some of its elementary schools in the inner city, and opening new schools in the outer sections. The inner city schools selected for closing were three of the predominantly all black schools, and the newly created schools were “all or virtually all-white”, which again contributed to the delayed progress in desegregating (Brown, et. al., v. Board of Education Topeka, 1989).

So, the mid 1950s to the mid-1960s saw the expansion of USD 501 through city-imposed annexations, which began with a spurt of population growth in the annexed areas. Topeka’s population growth into the newly annexed areas then led to the opening of new schools to service the mostly white suburban population, which resulted in a geographic racial polarization of the city. This was later identified as the main contributor to the increasing levels of segregation observed in the 1960s (Brown, et. al., v. Board of Education Topeka, 1989). The unabated growth and racial polarization that occurred during this time period was never formally addressed by the school district, which led to increased racial segregation in the district’s schools

(Brown, et. al., v. Board, 1989). The failure to react to the developing circumstances of the racial distribution of students and their families, following suburbanization and the racially isolating trends of the white population, is an example of a socially reproductive action occurring through inaction—institutionalizing opportunity and maintaining mechanisms of disadvantage. Though the USD cannot control residential housing patterns that affect enrollment, the USD had the power of student assignment policy making to counteract such developments.

The period between the mid-1960s into the mid-1970s saw the re-creation of racially concentrated schools throughout the district. In the late 1970s the district converted from a junior high system (6-3-3) to a middle school system (6-2-4), but this did not alter the unbalanced demographic composition of the district's schools (Brown, et. al., v. Board of Education Topeka, 1989). The unresponsiveness on behalf of the district to adapt to the developing circumstance of the city's increasing levels of residential segregation during this time period led to the 1987 suit against the district, which eventually led to the 1989 decision by the Tenth Circuit of Appeals Court that found the district to have become negligent in its attempts to desegregate. In turn, this led to the development and implementation of the 1994 desegregation plan that ended the court's oversight in desegregation process in USD 501 (Brown v. Board, 2011). Next I discuss the district's 1987 case regarding the stalled progress of desegregation efforts, and then go into the particulars of the 1989 case.

The district came under legal scrutiny again in October 1986. Similar to the 1951 suit that led to the Supreme Court appeal *Brown I* Federal Judge Richard Rogers sided with the school district in the case filed by Linda Brown on behalf of her children, who were now enrolled in the district. Brown claimed that the district had not taken sufficient action to comply with the original order to desegregate in 1955. Judge Rodgers dissented stating, "there is no legal, intentional, systematic or residual separation of races" on the part of the district ("Brown v. Board," 2011; Oliver Brown, et. al. v. Board of Education Topeka, 1989). Brown, et. al., (1987) appealed the decision of the Topeka District Court and the successive appeal was heard at the Tenth Circuit Appeals Court on December 11, 1989. "On appeal, the court reversed the order of the lower court and remanded the case, holding that the lower court erred in focusing on the absence of an intent to discriminate" (Brown, et. al., v. Board of Education Topeka, 1989). USD 501's subsequent attempts in 1990 and 1993 to have the case reviewed by the Supreme Court were unsuccessful in reversing this decision (New York Times, 1992; Carelli, 1993; "Brown v.

Board,” 2011). Next, I discuss the principles of unitariness as defined by the district court in 1987 in order to be able to see what actions the court considered adequate for following the 1955 desegregation mandates.

“The district court defined a unitary school system as “one in which the characteristics of the 1954 dual system either did not exist or, if they exist, are not the result of past or present intentional segregative conduct of” the school district” (Brown, et. al., v. Board of Education Topeka, 1989, p. 9). According to the district court, this is a necessary set of conditions that requires the district’s board of education to enact policies that do not “serve to perpetuate” or “re-establish a dual system”, while giving the board the authority to enact policies that the deem necessary to dismantle the dual system (Brown, et. al., v. Board, 1989). The district’s school assignment policy switching from a race based assignment to geographic based assignment system would be an example of an effort to dismantle the previously dual school system.

However, as noted by the case logs the new school assignment policies did little to avert the segregation that plagued the district, and in fact may have further perpetuated the problem. The expansion of the district in the late 1950s and the early 1960s, which led to the closing of three of the formerly predominantly all black schools, had next to no impact on the levels of racial segregation between white and black students in the district. Although the court considers one-race schools to be in need of scrutiny, they also state that “they are not always unconstitutional.” However, if the district has been found to have operated a dual school system in the past, the burden of proof rests with the district when considering whether or not a good faith effort has been made to eliminate the dual system (Brown, et. al., v. Board, 1989, p. 10). It is noted in court records, however, that the constitution defines no particular degree of racial balance for establishing unitariness. The Appellate Court’s discussions of the board’s actions in changing its school assignment policy is necessary to quote at length to understand the potential for socially reproductive actions that appear as good faith attempts to remedy the dual school system inequalities.

“One choice frequently made by school districts, and the one made in Topeka, is to use a neighborhood school plan as the basis for student assignment. Neighborhood schools are a deeply rooted and valuable part of American education. To the extent that neighborhoods are themselves segregated, however, such plans tend to prolong the existence of segregation in schools. Thus, they must be carefully scrutinized. They are not *per se* adequate to meet the remedial responsibilities of local boards” (Brown, et. al., v. Board, 1989, p. 14).

In most unitariness cases against a school district, the district courts look at the board's actions in following through with a court-approved desegregation plan, and based on the results of the board's actions, the district courts attempt to determine whether or not it is reasonable to say that no further action is required by the district to remedy the inequalities of the formerly segregated system. However, USD 501 was unique in that it was not tied to a particular desegregation plan as it was not required to develop a desegregation plan by the 1955 mandate (*Brown, et. al., v. Board, 1989*). Based on these facts, the Appellate Court held the following for USD 501 in its determination, "When a school system was previously *de jure*, a plaintiff bears the burden of showing that there is a current condition of segregation. It may do so by proving the existence of racially identifiable schools. The school district must then show that such segregation has no causal connection with the prior *de jure* segregation, and that the district has in fact carried out the maximum desegregation practicable for that district. We now apply these legal principles to Topeka" (p 16).

Phase-I Desegregation and the Delay

Phase-I of USD 501's desegregation process began in 1955 and lasted until 1989. I now examine the findings of the District and Appellate Courts to determine the why the development of an adequate desegregation plan was delayed for nearly forty years. I then cross reference these findings with sociological theories to attempt to explain phase-I desegregation in USD 501 and its relationship to social reproduction and racial inequality.

In the 1987 *Brown* case the District Court determined the change in the USD 501 district's attendance policy, from race-based school assignments to neighborhood-based school assignments had the effect of maintaining segregation; the construction of new schools after 1955 actually promoted "racial separation"; and, minority faculty had been disproportionately placed in schools with higher minority percentages (*Brown, et. al., v. Board, 1989*). The District Court also determined that the district's actions since 1955 (e.g., annexations, re-drawing of attendance boundaries, and the district's "failure to adopt" various reorganizations to its policies—to the developing circumstances within the district that affected racial segregation) did not further the desegregation process. However, the District Court determined that such actions/inactions were without the intent to discriminate and did not promote segregation (*Brown, et. al., v. Board, 1989*).

The District Court's focus on the lack of intent to discriminate is the difference in the opinion of the two courts regarding desegregation in USD 501. The District Court viewed the race-neutral schools assignment policy (neighborhood-based assignment) and the disbandment of racially discriminatory policies in the district enough to determine the district's actions sufficient in the desegregation process (*Brown, et. al., v. Board, 1989*). However, the Supreme Court had since determined "race-neutral" neighborhood school assignment policies to be insufficient as a remedy to desegregation in *Swann, et. al., v. Charlotte-Mecklenburg Board of Education*, which became the basis for the Appellate Court's decision⁷. The Swann case established race neutral school assignment policies as insufficient in remedying segregation "simply because they are race neutral" (*Swann, et. al. v. Board, 1971*)⁸. The Appellate Court stated, "We believe that the district court's finding of unitariness is flawed by the undue deference it gave to the school district's neighborhood school policy and by the court's failure to give proper weight to its own findings that certain actions and omissions by the school district had a segregative effect" (p. 18). This leads to the discussion on the source of the delayed desegregation process in USD 501.

Status of Desegregation in USD 501 in 1989

The Tenth Circuit of Appeals Court established in their examination of the 1987 District Court case that the District Court identified two specific instances (the disparity in the racial make-up of district schools, and the disproportionate assignment of minority faculty to schools with a higher percentage of minority students) that suggest that the current policies of the Board, coupled with the developing social circumstance within Topeka itself, helped to facilitate/promote the segregation of blacks and whites in USD 501. According to the Appellate Court the District Court failed to look deeper into the "causal connection" between the

⁷ The Appellate Court recognized the dissent in the Swann case to be remedial compared to the USD 501 case, because of the plaintiff's responsibility to prove *de jure* segregation, and therefore deemed this to be a remedy case. The Appellate Court stated, "The question presented here is whether the school board has remedied the *de jure* that existed in 1954. One thing is abundantly clear. Creating neighborhood schools in 1954 did not desegregate Topeka schools."

⁸ See also, "*Green v. County School Board, 1968*," which establishes what are known as the green codes for achieving unitary status in a public school district.

contemporary state of desegregation and *de jure* desegregation in the district (Brown, et. al., v. Board, 1989).

The district's expert testimony in the case demonstrated that the likelihood of eliminating racially identifiable schools was marginal no matter how the racial composition of schools in the district was determined. However, the Appellate Court determined that when the racial distribution of students in district schools, which in this instance focused on district schools with higher percentages of minority students, is correlated with higher concentrations of minority faculty and staff assignments in schools with higher percentages of minority students, that the district is reinforcing a dual system based on the fact that the district controls the assignment of faculty and staff (Brown, et. al., v. Board, 1989). I quote the Appellate Court here at length to illustrate their thoughts in this process. According to the court,

“In Topeka, although the correlation is not completely uniform, there is a clear pattern of assigning minority faculty/staff in a manner that reflects minority student assignment. This correlation is fatal to the school district's effort to show a lack of current segregation. Both student assignment and faculty/staff assignment can be expected to vary from school to school, the former because of population distribution, and the latter, to a lesser extent, because of differing teacher credentials. When they vary together, as they do in Topeka, leading to schools that are noticeably more white or more minority in both students and faculty, it is difficult to posit a neutral explanation” (p.21).

The court believed that the unbalanced assignment of minority faculty and staff into schools with higher percentages of minority students, along with the existence of racially identifiable schools, proved that the district had yet to eliminate the vestiges of the dual system. Now that sufficient evidence has been established to answer each of the accompanying questions of the first thesis question, I transition the discussion towards the use of sociological theory to answer the question “why there was a delay in the development and implementation of desegregation plan”. I begin with a review of the questions answered so far, and then I steer the discussion based on those answers towards answering the first thesis question.

To answer the question of why was there a delay, I first needed to establish a definition of what desegregation was as per the 1955 order of the Supreme Court. By examining the mandates of that 1955 order, the definition of desegregation that emerged required the disbandment of all formal policies that enforced, allowed, or facilitated the legal separation of races in public school

districts. The court's order did not only carry the weight of eliminating formal segregationist policies, but it also required districts proven to have operated dual systems to remedy the effects of inequality created by the dual school system. However, based on the evidence presented in 1989 the status of desegregation in USD 501 illustrated that the board's removal of formal segregation policies did not effectively address the issue of racial integration in the district. Thus, when segregation was proven to still be prevalent in the district following the removal of such policies, the evidence then suggests that informal social action in Topeka and district policies promoted/maintained racial segregation in their stead.

A sociological examination of both the district's actions following the 1955 order to desegregate and the determinations of the 1989 Appellate Court hearing, would suggest that segregation was continued in USD 501 through the use of informal social mechanisms; supporting the use of Social Reproduction Theory in this case study. The socially reproductive mechanisms were facilitated by uneven development, which help to maintain racial inequality in USD 501 and Topeka itself. Chapter Five connects the research findings, here in Chapter Three, on desegregation in Topeka during phase-I of the desegregation process the cause(s) for the delay in the development of a desegregation plan, to the aforementioned sociological theories. But now, I turn my focus to the second thesis question and the questions associated with it in the next chapter.

Chapter 4 - USD 501 1990-Present

The information provided in Chapter Three established a foundation for addressing the second question of this thesis—How was desegregation originally defined in the Brown case, how is it understood currently, and how did its definition change over time—by ascertaining a definition for desegregation as per the 1955 Supreme Court mandate to USD 501. In answering the question of why there was a significant delay in the development of an adequate desegregation plan for the district through examining court records from the 1989 Appellate Court decision regarding the progress of desegregation in the district, it was noted that the definition of desegregation as well as the desegregation process guidelines had changed over time. In this chapter, I examine the contemporary guidelines for establishing unitary status in formerly *de jure* segregated school districts, making comparisons between phase-I and phase-II desegregation standards to identify the changes that occurred between the two time periods regarding what it meant to desegregate to the school districts and the district courts.

The comparison of the two eras first examines the contemporary desegregation standards, and then discusses the differences between the new standards to the original guidelines, which in turn illustrates the changes in the new era. The contemporary standards were established in *Green v. County School Board of New Kent County* in 1968; the standards set forth in this case became known as the "Green Factors" (Smrekar & Goldring, 2009). There was also another famous case regarding solutions for the desegregation process, *Swann v. Charlotte-Mecklenburg Board of Education* 1971, where there courts determined racial cross-town busing could be used as a tool to combat racial segregation. However, the Supreme Court's ruling in *Swann* did not have a significant impact on USD 501 because the district's cross-town busing system was not mandated by a students' race. Rather, USD 501's busing system allowed the voluntary busing of majority group members to schools with higher concentrations of minorities known as majority-to-minority transfers, which are discussed further in the examination of the BOE meeting minutes section. The summary paragraph for the comparison section then in turn answers the second question of this thesis.

The section following the Green Codes examines the effects of the desegregation plan's inception in USD 501, specifically focusing on the demographic composition of students enrolled in the district following the plan's inception. As alluded to earlier, there is a decline in

enrollment that follows the plan's adoption. Specifically, there is a significant decrease in white enrollment. I look to correlate the decline in district enrollment to the desegregation plan's inception. Also included in this section is an examination of the BOE's meeting minutes, in which I specifically search for data regarding the mention of race in declining enrollment numbers to look for effects of the contemporary racial social structure's influence in the desegregation process moving forward. Finally I conclude Chapter Four with a summary paragraph of the findings, in preparation for a summary conclusion of the research findings in Chapter Five.

Phase-II Desegregation and the 'Green Codes'

Green v. County School Board of New Kent County North Carolina began on April 3, 1968, when petitioning parents filed a suit against the school district's "freedom-of-choice" plan for desegregating. The parents were disputing the plan's intentions to desegregate were to actually allowing segregation to occur in the district through educational choice; in the three years that the plan had previously been in place virtually no integration occurred in the district. In the court's dissent, it was noted that the district's policy was an insufficient means for desegregating in that it placed the burden of integration on the parents (*Green, et. al., v. County School Board of New Kent County, 1968*). The lower court originally asserted the plan as a viable option for achieving unitary status. However, the Supreme Court reversed the decision and required the school board to "take affirmative action in adopting a plan to desegregate without placing the burden on the parents" (*Green, et. al., v. County School Board of New Kent County, 1968*).

As established in *Brown I*, the burden of integrating falls on the school board, and it is therefore the burden of that school board to make the necessary changes to obtain unitary status⁹. Here I feel it necessary to quote the Supreme Court's notes, in *Green* (1968), at length regarding the considerations that must be taken to account whenever a district is attempting to obtain unitary status,

⁹ School boards operating state-compelled dual systems are clearly charged with the affirmative duty to take whatever steps might be necessary to convert to a unitary system in which racial discrimination is eliminated root and branch.

"In implementing the decision of the United States Supreme Court that racial discrimination in public education is unconstitutional, the courts may consider problems related to administration, arising from the physical condition of the school plant, the school transportation system, personnel, revision of school districts and attendance areas into compact units to achieve a system of determining admission to the public schools on a nonracial basis, and revision of local laws and regulations which may be necessary in solving the problems of desegregation; the courts will also consider the adequacy of any plans the defendants may propose to meet this problem and to effectuate a transition to a racially nondiscriminatory school system" (p. 2).

The relief measures given by the Supreme Court are the guidelines known as the "Green Codes." The Green Codes gave the lower courts a foundational basis to assess a school district's attempts to remedy *de jure* segregation in the district¹⁰. The previous mandates established by the court in 1955 were rather vague in that they only required the district to make a "good faith effort" to remedy the vestiges of inequality created by operating a dual-system school district. No guidelines were established for the lower courts to assess whether or not such efforts were present. By establishing the unitary way of assessing the efforts of a school district, the Supreme Court reduced the discretionary variability of the lower court's decision in determining whether or not unitary status had been achieved. However, discretion remained a factor in the determination process as illustrated in USD 501, where in 1987, the District Court determined the district to have been compliant with the 1955 order to integrate because of the absence of an intent to discriminate. The Appellate Court overturned that verdict by their assessment of the student assignment policy and the faculty assessment policy. So, though discretion still allowed for differences in opinion between the two courts, there ultimately was a set of standards approved for measuring the efforts of school districts in the process of desegregating. The new standards for assessing a school district's progress in the desegregation process, the Green Codes, did not change the definition of desegregation from 1955. Rather, they gave structure to the

¹⁰ The Green Codes are set of directives in the assessment of the unitary status of school districts. The Green Codes give universal structure to the courts' assessment processes of gauging a school district's progress towards achieving unitary status in desegregating school districts (e.g., examining the assignment of minority faculty and staff in the district's schools, specifically searching for an increased minority presence in certain schools, which suggests an intent to promote segregation). The 1955 mandate contained few structural guidelines for the courts to use in the determination of progress towards unitary status.

unitary assessment process. The answer to the second thesis question therefore is the Green Codes established a uniform structure for assessing schools districts progress in the desegregation process. This was previously missing because the 1955 mandate left much of the decision making process up to the individual district courts and the school districts were allowed to determine the status of the desegregation process discretionally.

Now that the guidelines for assessing a district's attempts towards establishing a unitary system had been established by the Green Codes, the Supreme Court set its focus specifically on the freedom-of-choice plan attempted by the district in *Green* (1968). The Supreme Court noted in its findings that the "freedom-of-choice" plan, which allows pupils to choose their public school in a district proven to have operated a dual-system is insufficient in remedying segregation (*Green, et. al., v. County School Board of New Kent County, 1968*). The court's 1968 decision stated that,

"In 3 years of operation of the plan, not a single white child has chosen to attend the Negro school, and, although a number of Negro children have enrolled in the white school, 85 percent of the Negro children in the system still attend the Negro school; and the board must be required to formulate a new plan, and, in light of other courses, such as zoning, which appear open, must fashion steps which promise realistically to convert promptly to a system without a white school and a Negro school, but just schools" (p. 6).

The New Kent County Virginia school district operated two schools, one on the east-side and one on the west, both of which did not have attendance boundaries and serviced the entire county, which was equally populated by blacks and whites (*Green, et. al., v. County School Board of New Kent County, 1968*). The district had formerly operated a dual-system and adopted the "freedom-of-choice plan as a remedy to address the segregation created by the old system by allowing parents to decide to integrate at will. However, it became clear that such measures were ineffective during the three year trial, and yet the district did not attempt to modify the policy in a manner that promoted integration. In turn, this allowed the social reproduction of segregation to occur without the an explicit board policy in place to enforce it. Therefore in the case of school districts that are under court supervision to eliminate racial segregation, allowing educational choice policies to determine integration levels of school in the district is an

insufficient remedy that reinforces the previous status quo. Now I turn the focus to what this meant to USD 501.

USD 501 after the Appellate Court's Decision in 1989

Following the Appellate Court's ruling in 1989, USD 501 began revising their segregation plan. Finally, on August 8, 1994, Judge Rogers approved a desegregation plan submitted by the district. Judge Rogers' approval temporarily released USD 501 from court supervision in the process to employ the plan to remove the remaining vestiges of inequality created by the segregated school system ("Brown v. Board," 2011). Then superintendent, Jeffrey W. Weaver, testified that the district's plan involved closing four predominantly black schools in 1996, and opening two new magnet schools. That along with other measures, would ensure that the district continued "to remove the remaining vestiges of segregation" (Hancock, 1994). The superintendent said the proposed plan would take approximately three years to complete. Closing four of the predominantly black schools and building two magnet schools with "special" programs to attract white students, likely affected the perceptions of black students among white parents (Buckley & Schneider, 2002). Research on cultural differences in schools' performance would suggest that the initial action of the district—closing the predominantly black schools—would have an immediate impact on the parents' perceptions of minority students in the district, which may have affected white student enrollment. (Bankston & Caldas, 1996). However, it is important to note that forcing integration by busing whites to the predominantly black schools may have had an even greater negative impact on enrollment in the district. In the next section, I examine the population characteristics of the Topeka metropolitan statistical area (MSA) using data from the 2000 census to understand the population characteristics.

Topeka's Contemporary Population Characteristics

As of the 2000 census, Topeka's population was eleven percent black and seventy eight percent white; approximately 27,800 students were enrolled in area schools (U.S. Census Bureau, 2011). Based on information from the 2000 census Topeka had a black/white dissimilarity index of 54.7, which means that 54.7 percent of the white population would have to move into other neighborhoods in order to integrate evenly across the city (Census Scope, 2011). Five year estimates from the American Community Survey (ACS) illustrate a slight decrease in the white population between 2005-2009, down three percent, and a slight increase for the black

population, up one percent (ACS, 2011). In sum, recent trends show little change in the black/white population ratio in Topeka since *Brown I* (1954). The limited change in racial composition and the index of dissimilarity data suggests that there is a high probability that the white population remains substantially segregated in residential areas with few black residents. The next section examines enrollment trends that followed the inception of the district's desegregation plan.

Enrollment Trends Following the Inception of the 1994 Desegregation plan

In this section I examine the USD 501 demographics just before the desegregation plan's inception, and in the years thereafter. All of the data for this section comes from the Kansas Department of Education's online demographic enrollment database and can be referenced in table 4.1 at the end of the chapter. It is important to note that one of the concerns presented by the district in the 1987 case was a projected decline in enrollment, which was to occur until around 1998. Though declining enrollment was cited as a concern of the district, there was no specific mention of race in the overall decline, although the desegregation plan's inception was expected to influence the decline. I now examine the demographic enrollment data starting with the 1992-1993 academic year, and go through to 2009-2010.

For the 1992-1993 and 1993-1994 academic years the ratio of white to black students in USD 501 was 3:1 (see Table 4.1). In that same time between the 1992-1993 and 1993-1994 school years white enrollment experienced a slight increase in enrollment, up 1.2 percent. However, between the 1993-1994 and 1998-1999 schools years white enrollment had already been declining, which at this point had fallen to 8,486 from the 9,634 in the 1993-1994 academic year (down 11.9 percent). That same time span saw an increase in black enrollment from 3,253 to 3,609, an increase of nearly 11 percent (10.9). During this time span the district was in and out of court attempting to make minor adjustments to the plan, mostly just filing for extensions. Though the district's desegregation plan had proven itself to be limited in its effect on inducing integration (as illustrated so far by the demographic enrollment data which suggests and increasing minority concentration in the district), the Topeka District Court granted USD 501 unitary status in the summer of 1999. Although the district obtained unitary status white enrollment continued to decline in the subsequent decade (see Table 4.1). Meanwhile, the

Hispanic population saw a dramatic increase. By the 2009-2010 academic year, the Hispanic student population was about the same size as the black student population.

Examining the demographic enrollment data for enrollment between the 1992-1993 and 2009-2010 school years, it is noted that white enrollment exhibits significant declines after the inception of the desegregation plan. Overall, between the first year of the plan's implementation, in 1994-1995, and the lowest figure of white enrollment in the second phase of desegregation, in 2007-2008, white enrollment declined 33.9 percent. However, between 1994-1995 and 2007-2008 black enrollment declined just 4.9 percent. The enrollment numbers between the two groups illustrates that the district's predicted projections, which suggested a decline in enrollment would occur, cannot account for the disparity that exists between the two groups following the desegregation plan's inception. The correlation between the decline in white enrollment and the plan's inception would suggest that the desegregation plan's inception negatively affected white enrollment in the district. One aspect potentially influencing enrolment in USD 501 could be the national policy agenda of education choice, which for a formerly dual-system school district is eerily similar to the "freedom-of-choice" plan in the *Green Case*.

White enrollment does eventually begin to increase after the 2007-2008 school year; however in an investigation into the effects of the desegregation plan's inception on district enrollment it would be assumed that the district's BOE would be tracking enrollment demographics during the decline in majority group enrollment. Therefore, I now transition into the discussion into an examination of the district's BOE meeting minutes on enrollment. I begin with the BOE meeting minutes from the 1996-1997 school year, which was set to be the final year for the desegregation plan's inception.

Table 4.1USD 501 Demographic Enrollment Data (1992-1993 to 2009-2010 Academic Years) (Source: Kansas Department Of Education Enrollment Database, Accessed 2011)

Academic Year	# of White Students Enrolled	# of Black Students Enrolled	# of Hispanic Students Enrolled	# of Other Minorities Students Enrolled	Total Enrollment
1992-1993	9,517	2,008	1,012	418	13,829
1993-1994	9,634	3,253	1,146	486	14,519
1994-1995	9,164	3,343	1,242	459	14,208
1995-1996	8,701	3,325	1,391	498	13,915
1996-1997	8,596	3,471	1,455	489	13,915
1997-1998	8,495	3,533	1,547	499	14,074
1998-1999	8,486	3,609	1,655	514	14,264
1999-2000	8,193	3,579	1,772	519	14,063
2000-2001	7,882	3,605	1,952	503	13,942
2001-2002	7,796	3,657	2,193	477	14,123
2002-2003	7,465	3,599	2,237	473	13,774
2003-2004	6,814	3,128	2,085	1,905	13,932
2004-2005	6,503	3,047	2,218	1,856	13,624
2005-2006	6,286	3,284	2,375	1,187	13,132
2006-2007	6,092	3,176	2,413	1,370	13,051
2007-2008	6,064	3,178	2,619	1,490	13,351
2008-2009	6,181	3,172	2,763	1,605	13,721
2009-2010	6,527	3,371	3,019	1,217	14,134

USD 501's BOE Perspective on Enrollment in the Post-Plan Years

The USD 501 BOE met on Oct 3, 1996, to discuss enrollment for the 1996-1997 academic year, which marks the starting point of the analysis. The board noted a one third decline in enrollment (114 students) compared to what had previously been predicted. It comes as no surprise as to why the board expected a decline in enrollment when one examines the declining trend in enrollment in the previous two years. However, one positive statistic in the declining enrollment was the 154 applications taken from out-of-district students, of which 132

were admitted. This could suggest that parents of children in other districts were not negatively affected by the desegregation plan's implementation, and that the district was an attractive "educational choice"; however, this could also be attributed the diversity of programs offered by the district, which is the most cited reason on transfer applications. The demographic office also noted a loss of 22 students (those previously enrolled but did not re-enroll), which was mainly to other counties or out-of-state districts. The limited number of student transfers from the district to the surrounding public school districts in the county can be interpreted one of two ways: 1) it suggests parents chose not to exercise their educational choice option to transfer out of the district and the desegregation plan had little effect on these individuals; or, 2) the individuals who stayed may not have had the means to exercise their choice options due to resource deficiencies. The district did note an increase in the number of Hispanic and English Language Learner (ELL) students in the district.

Also discussed at this meeting were strategies for improving enrollment numbers by increasing the advantages of attending the district, retention strategies for the magnet schools and out-of-district students, the possibility of neighboring districts opening enrollment, etc., all of which illustrates the board's ambition to increase enrollment. The presentation of district enrollment numbers, demographics, etc., is delivered by the district's Demographic Office, and what is most intriguing is that there is no explicit mention of declining enrollment, or at least in the meeting minutes, as coming from the white population. This fact becomes more intriguing once the presentation of the increased Hispanic and ELL enrollment is factored in. It is unlikely a decline in white enrollment would be unnoticed. However, in the context of the contemporary hegemonic racial social structure, if someone were to have suggested a racial motive in the declining enrollment that individual would themselves be deemed a racist (Bonilla-Silva, 2001; Wise, 2005, 2010; Doane, 2003).

The BOE met again in the 1996-1997 school year to discuss the enrollment projections for the 1997-1998 year on Feb 20, 1997. The BOE acknowledged its surprise to the projected enrollment loss for the 1996-1997 year, and expressed its contentment for the one-third decline instead of the increased projected loss of 342 students. The Demographics Office's (DO) enrollment projection for the 1997-1998 school year predicted a loss of 220 students. The DO forecast an increase in the number of applications for the district's magnet schools to exceed the number of available positions. The projected decline in enrollment was charged to the declining

birth rate in the attendance area; there were no other potential sources given for the projected decline in enrollment.

The board met again on Mar 20, 1997, to discuss the impact of declining enrolment on the district's economic resources. It was cited that the decline in enrollment in recent years had been limiting the resources of the district, which prevented increasing staff salaries and the district's ability to provide more paraprofessionals to its schools. A similar concern was expressed at the board's meeting on May 10, 1997; at this meeting the BOE discussed decreasing the workforce at the Administrative Office by the same percentage decrease as school enrollment. There was even discussion of sharing principals between two schools in the district to cut costs. The board's concern over declining enrollment and its economic impact suggests it was actively pursuing strategies for increasing enrollment, which may have diverted attention away from the decline in white student enrollment specifically—which was down just 105 or 1.2% from the previous year, but down 1,038 students or 10.8% overall since the adoption of the desegregation plan (1993-1994 academic year). However, contemporary racial theory would suggest that the district's neglect of explicit racial mention, with regard to declining white enrollment, was viewed as an acceptable measure in the current racial social structure.

The next discussion over district enrollment occurred at the BOE's meeting on Oct 2, 1997, regarding the 1997-1998 academic year. The DO presented the enrollment figures to the board, which was better than originally predicted. Total enrollment hit 14,167—an increase of approximately 60 students. The cited explanations for the increase in enrollment were: the closing of Northland Manor in North Topeka and the relocation of its families to the USD 501 attendance area; the new law increasing the dropout age from 16 to 18; the higher birth rate in 1991-1992 resulting in a large increase in the kindergarten class; and the district's open enrollment policy (applications increased from 155 in the previous year to 171); and outward mobility which appears to have stabilized. Also, all schools in the district were reported to be within a racial balance of plus or minus 15 percent, with a balance of plus or minus 10 percent in the magnet schools for the second straight year, which was important for the court's determination of unitary status. The district's DO also reported a total of 1,359 M to M (minority to Majority) transfers, up 133 from the previous year.

The financial impact of the increased enrollment was reported to have been \$846,170. The BOE's next discussion of enrollment on Oct 16, 1997, noted the superintendent's delight to

the increase in enrollment (approximately 240 students) and the increase in economic resources that the increased enrollment would provide the district. But in all of the discussion of the racial balance in the district's schools and the economic impact of increasing enrollment, there was again no mention of the decline in white enrollment—down 101 students or 1.2% from the previous year (down 1,139 or 11.8% from the 1993-1994 academic year).

On Feb 5, 1998, the BOE met to discuss the enrollment projections for the 1998-1999 school year, and the DO presented its five-year enrollment projections (1998-2002) for the district. A historical record of enrollment from the Fall of 1969 through the Fall of 2002 was presented, which showed an overall decrease in enrollment from 25,847 to 14,165 students. The DO's forecast for the immediate future predicted an increase in enrollment of approximately 81 students for the Fall of 1998, with relatively slight increases or decreases over the following five years. Several factors were cited for the steady enrollment population, "there seems to be a leveling effect, not just in this district; outward migration has been modified; and the district's out-of-district enrollment guidelines."

Because the district is basically land locked (USD 501 has more students in the smallest geographic area in the county), "many families are building and buying homes outside of the USD 501 attendance area, and many of the dilapidated houses are being torn down and are not being replaced, it is not very likely there will be any increase in student the population, and it could likely decrease after the immediate five-year projection" (USD 501 Board of Education, 1998). The explanation of housing development shifting to areas outside of the district's attendance area may give the best indication as to the source of declining white enrollment. Melvin Oliver and Thomas Shapiro's *Black Wealth, White Wealth* indicated sharp discrepancies between blacks and whites, with specific regard to housing. In their analysis of economic differences between whites and blacks, Oliver and Shapiro, found homeownership to comprise the largest portion of the average American's financial portfolio; Whites, more often than not, were homeowners, whereas blacks were found more likely to be renters—as they were less likely to have the economic resources necessary for purchasing a home, let alone a newly developed one. If similar conditions existed in Topeka, it is easy to foresee the loss of white students enrolling in the district due to housing development outside of the district's attendance boundaries. The explanation of people moving to residential areas outside of the district, is most likely an effort to maintain their class status and position to sustain structural inequalities while

also ensuring their class position with their peers—racially, fits into the model of the contemporary racial social structure, which uses class differentiation explanations for the developing social circumstances creating inequality instead of race (Kaufman, 2005).

Board members asked several questions about the DO's enrollment projection method; the increased enrollment as a result of open enrollment; how more houses are affecting movement into the district; the effects of Neighborhood Improvement Associations trying to improve inner-city housing; movement to out-of-county districts as well as private and parochial schools; what same-size districts are doing; what are the main reasons out-of-district students are transferring in (mainly by parents who had graduated from USD 501 and want their children to as well and the diversity of the curriculum); what the impact of the *Brown v. Board of Education* has had on enrollment (did not affect the numbers in magnet schools); the land-locked geographic area of Topeka and the demolition but not rebuilding of homes; and the improving quality of the district to attract and maintain its student population. Interpreting the discussion of the BOE members regarding enrollment and strategies to attract and increase its student population shifts the focus on the source of declining enrollment onto the actions of the population (parents with school-age children) within the district's attendance boundary. The post-racial liberalistic stance of the district, in regard to the declining enrollment with specific mention of race, illustrates the contemporary racial social structure and its focus on race as a class issue (Wise, 2005).

The Topeka Capital Journal (CJ) reported an increase in enrollment for the 1998-1999 school year, tallying approximately \$174,800 in additional state funding for the district (Albright, 1998). The BOE's next discussion on enrollment, on Oct 1, 1998, confirmed the reported increase in district enrollment for the 1998-1999 academic year. The DO reported an increase of 65 students, bringing enrollment up to 14,232 (before audit). To DO explained the increase as, "best explained as stable." There were 207 reported out-of-district applications (approximately 50 percent of which were for the high school level), which was an increase of 33 compared to the previous year, and there were also 1,394 M-M transfers approved (an increase of 89). It was stated that, "transfers are a significant factor in why enrollment figures vary from projected figures and is a major component in desegregating schools." The DO reported that the district was again in compliance with the court ordered desegregation and had been for the past three years, and the racial composition of students was stable. The stabilization of the racial

composition was attributed to an increase in parent comfort level with the desegregation plan. However, if parents had become more comfortable with the district's desegregation plan then why did white enrollment continue to decline? The DO never explicitly addressed the issue of declining white enrollment with the BOE, or at least there was no mention of this issue at the BOE meeting. Either way, achieving racial balance in its schools, while minority enrollment continued to increase, further supports the theory of socially reproductive action in the racial segregation of schools being the result of individual led group action within a strata to maintain resource inequalities in education. The declining white enrollment in USD 501 and the index of dissimilarity for Topeka being 54.7 in 2000, suggests a slower progressing version of white-flight seen in the housing market in the 1960s.

At the Feb 18, 1999 meeting, the BOE discussed the enrollment projections for the 1999-2000 academic year, which predicted a decline of nearly 100 students. The projected decline was evenly spread between the three levels (elementary, middle, and high schools). Several factors were introduced to explain the decline, some of which were: the age of the available housing stock, the declining birth rate, crime and residential growth, the Brown Desegregation Plan, the Bond Issue Passage (for an increase in computer technology for the schools and installing air conditioning in each of the schools), the change in the law for the age of dropout, and out-of-district students. These factors were used to explain the decline in district enrollment in a positive manner—out-of-district enrollment had however increased from 110 students three years ago to 220 students in 1998-1999.

According to BOE meeting minute records, the board applied for unitary status in the 1998-1999 school year. The district was ultimately granted unitary status on July 27th, 1999, which established the district having eliminated the vestiges of inequality associated with the previous dual-system. The district's achievement of unitary status, given its legal background, suggests that the structures of the district that facilitated growing racial inequality had been removed and or diminished to the point it was considered to no longer be a matter for the court supervision. The racial composition of the student population was not addressed in the district's attainment of unitary status, which is most likely due to the demographics of enrollment being out of their control. However, the absence of discussion on the declining district enrollment coming specifically from the white population supports the theory that the BOE was unaware of such changes, or it believed that there was no cause for concern. However, the absence of

discussion may be better explained by contemporary sociological race theory. Contemporary race theories on the hegemonic racial social structure of the color-blind era would suggest that the absence of discussion on declining white enrollment is due to the inappropriateness of explicitly addressing racial issues in a public forum. In the contemporary racial structure, the BOE's citing of housing being developed outside of the attendance boundaries as a source of the declining enrollment may have been the district's acknowledgement of whites leaving the district.

Enrollment declined again in the 1999-2000 to 14,135, down approximately 100 students from the previous year. The DO cited the following explanations for the decline: 1) dropouts; 2) out-of-district students; 3) mobility; 4) declining birth rate; and, 5) outgoing senior class. There were 215 out-of-district students enrolled and attending the district, which is up 28 from last year—which brought the number of approved transfers up to 1,487, up 112 from the previous year. The DO cited the district's aggressive transfer policy as the source of establishing racial balance. When the administration examined the enrollment disparity in the DO's report, it determined the transfer policy to be the major determinant of district enrollment, and they expressed their desire to use the transfer policy to increase enrollment as opposed to making boundary changes.

At the same meeting on Oct 7, 1999, a committee was established to consult with the U.S. Department of Education's Office for Civil Rights (OCR) on a voluntary magnet school to avoid minority group isolation. The district also planned to update its transfer policies with assistance from the OCR. The district also received an assistance grant, the purpose of which was as follows: to prevent racial isolation from occurring at Scott and its feeder schools; develop innovative programs to attract students and meet the educational needs of all Scott students; align the curricular standards and student performance measures with national, state, and local systemic reform; and, strengthen knowledge of challenging academic subjects and vocational exploration of all Scott students—Scott is a magnet school within the district that was built to commemorate the efforts of Elisha, John, and Charles Scott's efforts in the landmark desegregation case (TPS, 2011).

The BOE meeting to discuss the enrollment projections for the 2000-2001 academic year on Feb 17, 2000, projected an additional loss of 153 students for the next Fall. Optimism was expressed for future enrollment due to: new housing opportunities in the district boundaries, new

office buildings in the downtown area, and the passing of the bond issue for air conditioning and computers. Also noted was the increase of ESL programs in the district—approximately 20 percent each year. Hispanics were reported to be the fastest growing demographic in the district. There was once again no mention of the declining enrollment being attributed to the white population specifically, which was now down 1,441 or 15% from the year just prior to the implementation of the desegregation plan.

Enrollment declined again in the 2000-2001, then increased slightly in 2001-2002, before decreasing again in 2002-2003. During this time, the number of transfers remained steady (around 1,500), M-M transfers increased, applications to the magnet schools declined with no readily available explanation, and Hispanics became the fastest growing demographic. In 2002-2003 minority student enrollment increased slightly—from 45.6% to 47.5%. The district also experienced an increase in the number of students qualifying for free or reduced lunch fees—from 59.5% to 61.9%. The Hope Street Academy, the charter school affiliated with the district, experienced growth as well growing from 218 to 240 students. Although the growth experienced by the charter school in USD 501's attendance area was minimal it cannot be attributed as a source of declining enrollment experienced by the district in previous years. Transfers for the 2003-2004 academic year remained comparable to previous years; however, transfers to the magnet schools increased (from 391 to 483). The number of minority students enrolled increased from 47.5% to 51.4%. Also, a new racial category was introduced for the 2003-2004 academic year—multiracial—which contributed to the increase in reported minority students. The addition of the multiracial category to the districts racial classification of students could have been a source for the decline of white enrollment following its introduction. However, research suggests that possibility of whites self-identifying as a racial minority is highly unlikely (Herman, 2004).

Enrollment declined yet again in 2004-2005 (down 1.5%), which was comparable to the previous year's 1.3% decrease. The district's DO presented enrollment data from 1995-2004, which was said not to have indicated a "significant trend" and that the "enrollment numbers fluctuate from year to year." In 2004-2005, the largest decline occurred at the elementary level, but out-of-district transfers and magnet school applications also declined. However, M-M transfers increased, which could have been due to the busing that is provided for some transfers. The district had approximately 450 students transfer from USD 501 to other districts (including

out-of-state)—approximately 200 of which were reported to have transferred to surrounding schools.

The trend of declining enrollment continued into the 2005-2006 school year, which was down 77 students from the previous year. The BOE acknowledged that the 77-pupil decline was less than the previous year, but it was the second straight year enrollment declines. Early projections had enrollment decreasing for the 2006-2007 year as well. This time, declining enrollment was charged to the low interest rates over the past few years, which had encouraged new housing development in the south and west areas of Topeka (i.e., most homebuyers were purchasing outside of the district). The district reported that most of the schools on the west side of Topeka were full, and that the schools on the east side were being underutilized. There was also a decline in the number of in-district transfers, but out-of-district transfers remained stable. However, there is no specific mention of white enrollment decreasing in the district in any of the ten aforementioned years of declining enrollment. The absence of such information in the BOE meeting minutes would imply that the district was unaware of this specific trend—especially given the attention placed on increasing enrollment, tracking racial balance in the district, and the noted increase in the Hispanic student population in the early 2000s. Short of educational choice being a factor exercised through out-of-district transferring, it is not implausible that educational choice was practiced in the form of residential segregation—as was the case in Memphis—when it was economically feasible. The development of housing in the areas outside of the district’s boundaries in the city’s suburbs would fit the model found in Johnson and Shapiro’s study; that is, where parents selected neighborhoods based on the racial composition of the local schools and moved out of neighborhoods once they began to racially integrate. In this case, parents also likely reacted to the implementation of the desegregation act.

The 2006-2007 academic year marked the end of declining enrollment in the district. Enrollment increased by 260 (pre-audit), before officially declining in the audit. There was, however a significant drop in the number of transfers (from 1,683 to 448) and in approved M-M transfers. The cited reason for the decline was the expansion of the ELL programs into most of the district’s schools—there was a slight increase in out-of-district transfers (approximately 9%), which were stated to be due to parents’ desire for diversity. The district expressed concern in maintaining the racial balance of its schools. A chart from the DO indicated that: the elementary and middle schools had remained about the same as previous years, the percentage of minority

students enrolled in high school had dropped from 48.9% to 46.3%, and that the overall district average was 50.8% minority students.

From 2007-2008 onward, the trend of declining white enrollment leveled out and began to climb again, with no specific reason or mention cited by the district. The total percentage of minority students, district-wide, increased from 50.8% in 2006-2007 53.0% in 2007-2008 as of the Oct 4, 2007 BOE meeting. Enrollment continued to climb in the 2008-2009 and 2009-2010 academic years, specifically white enrollment, which at one point had dropped 37 percent but increased eight percent from 2007-2008 to 2009-2010. The next section contains an analysis and synthesis of the BOE meeting minutes data.

Interpretational Analysis of BOE Meeting Minutes

The synthesis of USD 501 BOE meeting minutes spanning 16 years is supportive of the previously discussed theories—SRT, uneven spatial development and residential segregation, and contemporary sociological race theory, which provide an explanation for the decreasing white enrollment following the adoption of the district’s 1994 desegregation plan. Though it cannot be said definitively that the decline in white enrollment was due to the implementation of the desegregation plan, the evidence of the developing social processes that followed—1) housing construction outside of district attendance boundaries; 2) declining enrollment from the white population specifically; and 3) the lack of racial discourse in the discussion of declining enrollment—is all suggestive of socially reproductive action within the contemporary hegemonic racial social structure.

Evidence of socially reproductive action occurring within the district during the decline is expressed at multiple meetings, though it is never discussed as either racial or class-based, the BOE’s methods of expression were suggestive of both. The BOE’s discussion regarding housing development in Topeka during the enrollment decline, as happening outside of the district, suggests that people purchasing homes outside of the district was the source of declining enrollment numbers. Put into context with the research of Johnson and Shapiro (2003), Oliver and Shapiro (2004), and the trend of declining white enrollment, it is likely that the homes that were being developed were being purchased by whites. The frequency of the declining enrollment trend suggests that people who could initially afford to move did so, and others followed suit. This would support the theories of Kaufman (2005), who found social

reproduction of the middle class to be initiated by a few individuals, which eventually led to group action.

Transportation issues could explain the low number of out-of-district transfers initially, as transportation is not provided for students to attend other districts, making transferring a less feasible option for exercising choice. However, the continuing trend of declining white enrollment may be due to parents adapting to transportation deficiencies or the pooling of resources to establish a means for having their children transfer to the surrounding districts—the transfers are effective for the duration of the child’s placement in the neighboring districts school, hence the number of transfer request are not likely to spike but rather remain relatively constant or slightly increasing or decreasing over time (Kaufman, 2005).

The non-existent mention of race in the declining enrollment, outside of the district attempts to maintain racial balance in its schools, illustrates the organization’s assessment of the issue in the contemporary hegemonic racial social structure. Race was not explicitly mentioned in the discussions of declining enrollment. However, there were several discussions regarding declining enrollment that made reference to class-based differences developing in Topeka (e.g., housing, dilapidated housing in the inner-city). Such language patterns are commonly used in the contemporary racial social structure to depict racial differences and inequalities as resulting from developing class differentiations (Wise, 2005, 2010; Bonilla-Silva, 2001; Doane, 2003).

Chapter Summary

This chapter set out to answer the second question of this thesis regarding the legal changes to the requirements of desegregating school districts attempting to obtain unitary status. The answer to this question was first mentioned in the examination of the 1989 Appellate Court case involving USD 501 in Chapter Three, with the reference to the Green case in Virginia, and is known as the Green Codes. The Green Codes gave added structure to the desegregation process for both the courts and the school districts to follow. For the courts, the Green Codes structured the measurement standards for assessing a school districts unitary status achievement, and provided a more complete set of standards of achievement in the desegregation process than the original 1955 mandate, which allowed the desegregation process to be determined by the district courts and the school districts at their discretion.

The process of answering the question of the effects of a desegregation plan's inception into the district began with a brief examination of the district's enrollment statistics. The analysis of the district's demographic enrollment data illustrated a significant decrease in white enrollment shortly after the inception of the district's desegregation plan that continued for approximately thirteen years. The correlation between the desegregation plan's inception and the declining white enrollment numbers that occurred almost immediately afterwards suggests that the desegregation plan's inception had a negative impact on white enrollment. Once there was a correlation established between the decline in white enrollment and the desegregation plan's inception the focus then turned to the district's BOE interpretation and explanation of the declining enrollment that ensued.

The analysis of the BOE meeting minutes was specifically looking for reasons cited for the decline in white enrollment. However, there was never any explicit mention of declining white enrollment in the minutes. The BOE meeting minutes did, however, discuss the spatial development of the city as a potential source for some decline. The BOE's language also indicated a connection between housing development in the city and the geographic location of different socioeconomic classes, suggesting that the decline may be attributed to the location of the different social classes across Topeka. The interpretational analysis of the BOE meeting minutes then infused the different sociological theories discussed in the literature review into an explanation of the BOE meeting minutes. Now that each question of the thesis has been answered, I now transition to the conclusion of the research findings in Chapter Five.

Chapter 5 - Conclusion

In Chapter One, I established the questions of this thesis along with the intended method for answering those questions. Chapter Two contained the historical background for the case-study as well as the literature review of sociological theories used to understand the answers to the questions being asked. Chapters Three and Four were each dedicated to answering one of the two thesis questions, and the questions associated with answering them. This chapter is the summary chapter of the research findings and includes: 1) a re-cap of the answers to the thesis questions; and 2) discuss sociological explanations for the research findings of this case-study, which I begin now.

The first question of this thesis was, "Why was there a 40-year delay in the development and implementation of the district's desegregation plan?" However, I first addressed the following questions associated with answering this question: 1) what is the definition of desegregation (as a process) as per the 1955 Supreme Court mandate; 2) what does desegregation look like (which included orders from the 1955 mandate); and 3) Did desegregation occur (specifically in USD 501)? The answer to the first of the associated questions defined desegregation as, a required disbandment of all formal policies that enforce, allow, or facilitate the legal separation of races in public school districts. The definition of desegregation established a foundation for answering the second of the associated questions, which listed some of the requirements of the 1955 Supreme Court mandate, but included a complete list in Table 3.1 at the end of the chapter to answer what desegregation should look like. Then the last of the associated questions sought to determine whether or not the actions of USD 501, post *Brown II*, had been compliant with the 1955 guidelines in their attempts to desegregate. Or put more simply, did desegregation occur in USD 501 under the original desegregation guidelines? According to the definition of desegregation established in the original case and records from the District and Appellate Courts, USD 501 had been compliant in following the guidelines of desegregation established in 1955, and yet there was limited progression seen in integrating the district. See, the Appellate Court's ruling in the 1989 case was influenced by new legal developments in the desegregation process of public school districts, namely the development of the "Green Codes".

The influence of the Green Codes in the Appellate Court's decision illustrated a change in the expectations of the courts in the desegregation process after 1955. The change in the expectations of desegregating districts now required the courts to examine particular structures within school districts, which included student and faculty assignment policies, and transportation policies, among other factors. This shed light on the informal practices of a district and its community that maintained segregation in the school district. In the case of USD 501, much of the delay was due to uneven spatial development in the districts attendance boundaries and the neighborhood-school student assignment policy.

Examining court records and the population data in Chapter Three, it was noted that Topeka experienced a growth period that contributed to increasing residential segregation between 1955 and 1989. When the increasing residential segregation of the city is coupled with the development of the district's neighborhood school assignment policy, the growth of the district actually worked to promote increased residential segregation. Kevin Fox-Gotham (2002) suggests that uneven development is a tool of promoting racial segregation in a geographic area. Court records noted the growth and expansion of the city and USD 501 occurred on the city's west-side, and that much of the newly developed territory services an "all white" or "virtually-all white" population, whereas the city's black population resided in the central and eastern portions of the city (Brown, et. al., v. Board Of Education Topeka, 1989). Therefore, the changing of the district's one-race school assignment policy to an open racial enrollment policy, based on a neighborhood assignment plan, allowed the district to comply with the definition of desegregation established by the Supreme Court by shifting the burden of integration onto the districts parents. This was similar to what had happened in the Green case in Virginia in 1968. The findings suggest that the delay in the development of a court approved desegregation plan in USD 501 was due to socially reproductive action in the education system and uneven spatial development, which exacerbated residential segregation within the district's attendance boundary.

The second thesis question was, "What is desegregation in its contemporary form, and how did the process change overtime?" To answer this question I started where Chapter Three left off, and began with the discussion of the Green Codes. The Green Codes are considered the standard guidelines for the courts to utilize in the determination of the progress of desegregation in public school districts. The Green Codes established a uniform structure for assessing schools

districts progress in the desegregation process, whereas the 1955 mandate left much of the decision making process up to the individual district courts and the school districts in their oversight to determine the status of the desegregation process discretionally. In sum, the structure that the Green Codes provided the lower courts in their assessment of progress in the desegregation process minimized the discretion in the determination of unitary status. This now made it easier for the courts to identify both formal and informal practices that promote racial segregation. In the 1989 Appellate Court case for USD 501, the court overturned the district court's decision because of their focus on the intent to discriminate, which did not take into account the faculty and staff assignment practices that in fact increased segregation in the district.

A synthesis of the data from the BOE meeting minutes and the interpretational analysis of the discussion regarding declining enrollment following the adoption of the 1994 desegregation plan illustrates social action supporting SRT and contemporary sociological race theory in USD 501. Contemporary sociological race theory would have suggested there to be little-or-no explicit mention of race in the discussion of declining enrollment and if mentioned, would most likely be discussed as class-based or economic differences (Wise, 2010, Winant, 2000; Doane, 2003; Bonilla-Silva, 2001). Though there was no explicit mention of class-based differences developing in the district, the discussion of the residential development outside the district and the dilapidated housing stock of the “inner city” implicitly depicts class-based differences in the district’s analysis. Under the contemporary racial social structure, this is likely to indicate racial differences (Wise, 2005, 2010; Bonilla-Silva, 2001; Doane, 2003). The socially reproductive aspect of declining white enrollment comes from the same social developments—people moving outside of the district’s attendance boundaries (Kaufman, 2005; Johnson & Shapiro, 2003; Denton & Massey, 1993). Individual families, most likely white, were moving outside of the district, a trend that started immediately after the desegregation plan’s adoption. Individuals seeing the desegregation plan’s adoption as a method of forced racial integration similar to the 1960s could have caused such a response. The difference between the white flight of the 1960s and the decreasing white enrollment seen in USD 501 after 1994 is race is not explicitly addressed. With educational choice policy in place, no one would question the declining enrollment as being racially targeted because they would likely have been deemed racist or received peer scrutiny (Kaufman, 2005; Wise, 2010; Bonilla-Silva, 2001; Doane, 2003).

Decreasing white enrollment in the educational choice era, using market ideology and principles, makes the social reproduction of racial inequality ‘natural’.

White enrollment began to rebound in the 2007-2008 school year, and has been a continuing trend since. One of the potential reasons for this is discussed in the BOE meeting minutes, which is gentrification. Briefly mentioned in the BOE meeting minutes is a development movement in the district’s attendance boundary, which could have attracted new families and increased white enrollment numbers.

It is pertinent to note that during the decline of white enrollment Hispanic enrollment grew steadily. One of the positives cited for promoting racial integration in public education is that it increases students interactions with other cultures. The integration of public school districts is seen as an opportunity to increase students’ exposure to cultural capital of cultural groups outside than their own. So while it may be argued that cultural capital associated with whites decreased after the implementation of the desegregation plan, exposure to Hispanic cultural capital increased for blacks and therefore decreasing white enrollment did not significantly impact blacks’ exposure to cultural others. The increased exposure to Hispanic cultural capital in the post-plan era is likely to be somewhat beneficial for all students in the district. However, one must question the tradeoff between the increasing Hispanic cultural capital and the decreasing cultural capital of whites in the district. It is uncertain whether or not it is beneficial to gain exposure to another minority group when the cultural capital from majority continues to decrease, but I speculate that the decrease of exposure to the dominant cultural capital likely had a negative effect on the students in the district.

The case study of declining white enrollment in USD 501 does not generalize the greater trend of re-segregation occurring in public education across America. However, evidence from this case study would suggest that the educational choice policy agenda should be examined, and measures should be added to prevent the potential racial isolation possible with such policy. More importantly, this case study illustrates the importance of recognizing the implications of operating in a colorblind society, where the legacy of racially inequality still exists—clearly we do not operate in a post-racial society and we should recognize it.

The sociological theories used to interpret and understand the desegregation process as it occurred in Topeka public school district USD 501 suggest that progress has been made in the desegregation process, however that progress is now threatened by changes in the racial social

structure that have altered the focus away from remedying specific racial inequalities to addressing them as class issues. The findings regarding the delay in the desegregation process from 1954 to 1989 (e.g., residential segregation in Topeka and the neighborhood school assignment policy) are supported by the sociological literature on social reproduction. Social Reproduction Theory points to the structure of the education system as the primary institution of replicating the contemporary social structure in capitalist societies. By instituting a neighborhood school assignment policy in a city with a high percentage of residential segregation the district was able to maintain previous levels segregation in its schools without formally enforcing it through policy. Social Reproduction Theory, therefore, facilitated the understanding of the desegregation process that occurred in USD501, as well as provided an answer to the research question of the reason for the delay in developing a desegregation plan. The literature on the sociological race theories, then, worked to facilitate an understanding of the district's proceedings in the desegregation process. Understanding how the racial social structure influenced, and continues to influence, the district's progress in integrating and becoming racially diverse enabled the development of a narrative thread in the examination of the desegregation processes in USD501. In sum, between the research findings of this thesis and the sociological literature on race and Social Reproduction it can be said that the progress of achieving racially diverse public school districts is a process that is in a state of constant change and flux. That said, it appears as though the prospects of achieving this goal will continue to be an up-hill struggle so long as their continues to be changes in the racial social structure of the U.S.

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