

## Chapter 7: San Francisco

### *Introduction*

By taking a close look at the details of the development of systemic reform in California, one can begin to define more concretely what standards advocates mean when they call for “higher standards for all,” “local control,” and “equity and excellence.” California history also suggests that several factors contributed to the crystallization of the 1989 BRT blueprint for educational reform. That calls for “tougher textbooks” in the 1980s was contrasted with the “lax” sixties and seventies indicates that standards-based reformers feared a loss of centralized control over the state’s curriculum. Concern over the “achievement gap” suggests a crisis of confidence in the public school’s ability to support the myth of meritocracy, a myth that denies society’s reliance on personal connections as crucial to finding jobs and college placements. The rhetoric about closing the “achievement gap” also seems to make resegregation defensible again. Demands for “more skilled workers” in the context of the Japanese challenge to Ford, Chrysler, and General Motors points to business fears that schools are not producing the kinds of workers they need for the twenty-first century.

In this chapter, I take a closer look at the relationship between the development of systemic reform at the state level and at the district level. The kinds of state-city relationships described in Chapter 4 as well as the relationship between segregation and systemic reform described in Chapter 5 are made manifest in the more detailed look at San Francisco. Both high-stakes testing and desegregation were used in San Francisco to divide community advocates against each other. This resulted in the elimination of community participation in educational reform (which has devastating effects on real reform as will be seen in the final chapter). The reward and punishment system based on test scores, the heart of the PSAA of 1999, was essentially given a trial run in San Francisco from 1984 through 1997. Reconstitution was introduced as part of educational reform in San Francisco through a process by which the San Francisco Unified School District (SFUSD), the State Department of Education (CDE), and the San Francisco chapter of the NAACP settled the latter’s 1978 desegregation lawsuit. The 1983 settlement, known as the Consent Decree, was a SFUSD-driven document reluctantly accepted by the NAACP lawyers. The presiding judge, William Orrick, cautioned the NAACP lawyers to not go to trial since he did not see how they could win their case. They would not be able to prove that the SFUSD *intentionally* promoted or maintained segregated schools. As a result, the NAACP lawyers could demand only what the SFUSD and the CDE were willing to concede.

The concessions were gained, however, by paying a heavy political price. By accepting a place at the negotiating table, the San Francisco NAACP acquiesced to the exclusion of teachers, Latinos, and Asian Americans from the table. The latter three groups all filed lawsuits during the life of the Consent Decree demanding that they, too, be parties to the desegregation settlement. Judge

Orrick consistently denied their claims, explaining to them that the San Francisco NAACP was able effectively to represent Latino and Asian American interests and the district office would represent the interests of the teachers. This would prove illusory when lawyers representing Chinese American students filed suit against the desegregation policies of the Consent Decree. Furthermore, as part of the Consent Decree, the district's accountability tool for all schools (called "reconstitution") was "shielded from the normal political process" (Ruiz-de-Velasco, 1998; p. 14). This shut out any community influence upon reform in the district. Hoping for the creation of an academically rigorous school in a predominantly black neighborhood, the San Francisco NAACP abandoned potential alliances with other community based groups whose various educational goals would necessarily challenge the high-stakes testing agenda. By refusing to appeal through the normal political process, the NAACP lawyers were increasingly guided by the SFUSD district office as the court deferred to the expert advice of professional educators.

During the lawsuit, the school district agreed that there was de facto segregation and that African American students, on a multiplicity of scales, were not succeeding in school in proportion to their numbers in the district. The solution to these two, agreed-upon problems rested on a single shared assumption among the three parties: teachers were responsible for the failure of students in school. The solution that incorporated this assumption into the Consent Decree was called reconstitution. Reconstitution of a school resulted in the "vacating" of the entire faculty and staff and then hiring new teachers and administrators based on their commitment to hold low-performing students to high standards. The most segregated part of the city with the poorest performing and most underfunded schools in the district were two neighborhoods called Bay View and Hunter's Point. The Consent Decree stipulated that desegregation of the Bay View and Hunter's Point area would be achieved by reconstituting three schools and establishing two new ones (one school was added in the largely Hispanic Mission district). Four reconstituted schools were physically renovated, brochures were made and distributed, the new staff were given six days of training, and the schools were opened with the expectation that parents from all over the city would want to send their children there. According to the court-appointed experts, this would result in five racially diverse schools in the Bay View/Hunters Point neighborhoods (plus one in the Mission) whose success rates and reputation of academic rigor would place them among the most prestigious schools in the district.

Since the district conceded that there were 19 racially segregated schools, they had agreed to expend resources on those schools to improve, through "targeted programs," academic performance, attendance, dropout, expulsion, and suspension rates of all students and African American students in particular. Furthermore, the district agreed to a 45 percent cap for any of the 9 specified racial/ethnic groups in 19 regular schools and a 40 percent racial/ethnic cap for the 16 elite alternative schools. An independent monitor was ordered by the court to evaluate annually the progress the district was making in complying with the more than 40 major stipulations required by the Consent Decree. Since the district was never in full compliance, the NAACP lawyers periodically sued for expansion

of the settlement in an attempt to apply more of the stipulations to more schools. By 1991, the NAACP was able to convince the judge that a more thorough review of compliance was necessary. The judge entertained nominations from each of the parties to the lawsuit for a special committee that was chaired by Gary Orfield.<sup>1</sup>

In 1992, Orfield's committee of experts submitted a report to Judge Orrick in which they concluded that the district was in compliance with the racial caps but had not succeeded in closing the achievement gap between whites and African Americans. Among the 72 specific recommendations in the Orfield report was one that the newly appointed San Francisco superintendent, Waldemar (Bill) Rojas, would pursue as his signature issue for the next seven years. Since it appeared that test scores had improved in the reconstituted schools but not in those schools with "targeted programs," Orfield recommended that the district begin to reconstitute three schools each year. The parties agreed to this modification to the original Consent Decree. From 1993 to 1998, Rojas used reconstitution "to raise expectations and increase accountability" — in other words, to implement systemic reform throughout the district.

In 1993, Rojas directed the development of the Comprehensive School Improvement Plan (CSIP). This was a process by which low performing schools were identified (primarily by test scores), offered resources and time, and then threatened with reconstitution if they did not improve student achievement. In spite of skepticism and concern from principals and serious objections from teachers, Rojas placed 24 schools on the CSIP track and reconstituted ten of them from 1993 to 1997 (see Appendix F for evaluation criteria used in June 1997). Throughout that period, Rojas had the support of the local business community, the San Francisco NAACP, and the city's black leadership because he was thought to be pursuing "equity and excellence" by holding teachers and principals "accountable" for the *high* performance of *all* students. Rojas argued in his 1996 PhD thesis, in numerous press conferences, and in all the official SFUSD publications that reconstitution was responsible for raising San Francisco students' test scores generally and minority students' in particular. The continuing disproportionate rates of attendance, expulsions, suspensions, and dropouts, concerns over the validity of using a standardized test as the primary measure of a school's effectiveness and creeping resegregation did not seem to tarnish the shine that Rojas was projecting upon himself.

In 1998, however, the San Francisco teachers' union finally forced Rojas to abandon reconstitution — a pyrrhic victory since the very next year the process of CSIP/reconstitution was institutionalized at the state level as the Immediate Intervention/Underperforming Schools Program of the Public School Accountability Act. In response to the lawsuit brought by Brian Ho against the SFUSD in 1994, Judge Orrick decided, in 1999, to eliminate the racial caps of the Consent Decree and end all provisions of the Decree by 2002. Rojas, reeling from increasingly vociferous accusations of district fiscal disarray, resigned as superintendent in 1999, spent six months as superintendent of the Dallas, Texas, public schools, and was fired from that post. He then moved to San Diego. In 2000, the San Francisco school board hired Arlene Ackerman as school

superintendent, basing their decision on her reputation for implementing standards-based accountability in the Washington, D.C., school district. Systemic reform, ironically, came to San Francisco in the guise of desegregation. Yet while systemic reform planted deep roots from 1984 to 1998, desegregation disappeared as an issue, leaving the San Francisco NAACP defending the new black superintendent's five-year, standards-based accountability plan entitled *Excellence for All*. In Chapter 4, I argued that standards and accountability were not imposed in five major cities until the city and state had abandoned the goals inherent in the strategy of desegregation. In San Francisco, however, the pursuit of desegregation was immediately co-opted by systemic reformers.

### ***The Drive for Integration***

The San Francisco NAACP's odyssey to desegregate the school district began in 1962. During that year, the Congress on Racial Equality and the Council for Civic Unity had launched a campaign to persuade the San Francisco school board to alter the student assignment process. When the district superintendent, Harold Spears, opposed any alterations in the student assignment process, around 1400 people packed a school board meeting to protest Spears's position. In response to public pressure, the school board established an ad hoc committee to study the issue of how best to desegregate the district's schools. Perhaps concerned about the effectiveness of the ad hoc committee, the NAACP filed a desegregation suit against the district (*Brock v. San Francisco Board of Education*). In April 1963, the ad hoc committee issued its report, recommending that race be taken into account in determining school assignments (Fraga, 1998; pp. 67–68). Apparently satisfied with this outcome, the NAACP allowed its lawsuit to lapse.

By 1970, the school board had a busing program in place that was targeting two neighborhoods, Richmond and Park South. When white parents sued to stop the busing program, the NAACP countersued (*Johnson v. SFUSD*) and won expansion of the busing program.

The District Court found that SFUSD violated the constitutional rights of Black children by (1) establishing school boundary lines knowing that such lines would maintain or intensify racial segregation, (2) constructing and modifying schools in a manner that would maintain or intensify racial segregation, and (3) assigning black teachers of limited experience to "black" schools while assigning few such teachers to white schools (Biegel, 1997; p. 27).

In spite of the court order to desegregate 102 elementary schools, the elementary schools in Bay View and Hunter's Point remained overwhelmingly black (Fraga, 1998; pp. 68-69). In 20 of the district's elementary schools, over 65 percent of the students were black and in 10 of those, black students constituted between 89 to 97 percent of the school (Rojas, 1999; p. 3). While African Americans were 28 percent of the district's student population in 1970, Chinese American students were approximately 18 percent. Seventy-six percent of the Chinese American students refused to attend public schools when the court issued its desegregation orders. Instead of having their children

attend majority black schools, community leaders created Chinese Freedom Schools (Fraga, 1998; p. 69).<sup>2</sup>

In another attempt to address the issue of desegregation, the new superintendent, Robert Alioto, began implementing in 1975 what he called the Educational Redesign Program. The plan relied heavily on the introduction of magnet schools to move schools towards the newly adopted goal of a 45 percent cap on any one ethnic group in a school.<sup>3</sup> The NAACP challenged this plan but Judge Wiegel dismissed the case in June 22, 1978, “without prejudice.” Undaunted, the NAACP immediately filed its third major case of the decade on June 30, 1978 (Fraga, 1998; pp. 69–70). Unlike in the previous two lawsuits, the NAACP now asserted that it was representing all students in the district and was suing the state as well as the district.<sup>4</sup> Peter Cohn, one of the NAACP lawyers, explained that the ultimate goal of the lawsuit was to improve the worst schools as well as desegregate the district (interview, 11/30/01). In order to do so, the NAACP lawyers filed a complaint in which they argued that the district pursued segregationist policies by

constructing new schools and annexes, leasing private property for school use, and utilizing portable classrooms in order to incorporate extant residential segregation into the District; establishing feeder patterns, transfer and reassignment policies, optional and mandatory attendance zones to situate children in racially isolated schools; implementing racially discriminatory testing procedures, disciplinary policies, and tracking systems within schools and classrooms; hiring and assigning faculty and administrative personnel; and allocating financial resources in a discriminatory manner (Orrick, 1983; quoted in Biegel, 1997; p. 27).

From 1978 to 1983, Judge Orrick entertained 25 pretrial motions. The most important one from the point of view of the NAACP lawyers as well as the judge was the 1980, 206-page motion and supporting memorandum

for partial summary judgment on the issue of whether, as of 1954 and 1970, the District was racially segregated as to the substantial portion of its facilities, programs, student enrollments, and personnel. The memorandum traced the history of de jure segregation in the District from the establishment of “colored schools” and “Chinese schools” in the 1850s to the segregation of the housing industry during the 1940s and 1950s. The memorandum also identified numerous instances of alleged discriminatory decision making inter alia in the selection of school sites, the establishment of student attendance zones and feeder patterns, the assignment of faculty and administrators, and the administration of achievement tests and discipline, from which the Court purportedly could draw the inference that the defendants intended to segregate the District (Orrick, 1983).

Judge Orrick, however, refused to “draw the inference.” He ruled instead against the motion explaining that the plaintiffs had failed to establish that the district had created a “dual system as of 1954 and that they had failed to assert a sufficient number of undisputed facts to create an inference of segregative intent.” If Judge Orrick had ruled that the NAACP’s evidence proved that the SFUSD was segregated before 1954, then, all the plaintiffs would have to do is “simply show that defendants had failed to meet their affirmative duty [established by *Brown v. Board*] to dismantle the dual

system.” But the judge indicated that the evidence in support of a “dual system” prior to 1954 was “of dubious validity.”<sup>5</sup>

Judge Orrick, in summarily dismissing the relevance of dozens of cardboard boxes filled with historical documentation of school district boundaries and feeder patterns prior to 1954, made the burden of proof more difficult. Judge Orrick told the NAACP lawyers that, to win their case, “plaintiffs would be compelled to prove current (post–1954) incidents of intentional segregation.” But the judge explained, in 1983, that the NAACP lawyers did not seem to have sufficient evidence to prove that the district acted purposefully to maintain or create segregated schools after 1954. The plaintiff’s case was weak, he argued, since

they relied largely on an analysis of the number of physical changes in facilities at “racially identifiable” schools from 1960 to 1970 to demonstrate defendants’ segregative intent during this period. Defendants, however, sufficiently cast doubt on the accuracy of plaintiffs’ data on a number of these changes. Plaintiffs also relied heavily on an analysis of defendants’ use of fourteen optional attendance zones during the 1940s through the 1960s to show segregative intent. However, their proof of the racial characteristics of the neighborhoods affected by these zones was often weak or unavailable. Moreover, defendants offered racially neutral explanations *for all but four of the zones described by plaintiffs*. . . . All of this is not to say that plaintiffs could not have won their case. . . . The Court suggests only that the risks of further litigation for the plaintiff class are very real (Orrick, 1983) [italics added].

The NAACP lawyers were dumbfounded that the judge could agree that there were four attendance zones that exhibited “segregative intent” and yet refuse to “find as fact” that the district was pursuing a racially segregated school system. The failure to win such a “finding” meant that the NAACP now had to prepare simultaneously for trial and for settlement (interview with Peter Cohn, 11/30/01).

### ***The Consent Decree***

The NAACP, in agreeing to pursue a settlement, began negotiations with the district and the State Department of Education for the next nine months. Their strategy throughout was to be very careful to not demand anything that the district or state could not or was unwilling to deliver. At the very least, however, the NAACP wanted to establish an “alternative school” in the historically neglected southeast part of the city (interview with Peter Cohn, 11/30/01).<sup>6</sup> By April 1982, Judge Orrick was satisfied that “except for current conditions at certain schools in the Bay View and Hunter’s Point area of the city [the southeast], there was no serious impediment to settlement of the action” (Orrick, 1983). He felt confident in suggesting “the appointment of a settlement team composed of the nation’s leading experts on school desegregation and education policy to resolve” the remaining points of contention (Orrick, 1983).<sup>7</sup> Fraga (1998) noted “a criticism of this [settlement team] has been that its members as a whole operate on a higher policy level and do not have extensive experience working in public schools at the K–12 level” (in a footnote on his p. 88). The

team, composed of university professors, consultants, and district administrators, were not only “at a higher policy level” but, except for the two district appointed employees, were all from out of town as well, having little or no knowledge of the unique history and characteristics of San Francisco.

Judge Orrick directed the settlement team “to deliberate in confidence, outside the presence of counsel, and the cochairmen were to act as sole spokespersons [for] the team.” The judge further indicated that a trial date in February 1983 “would not be changed and that, in the meantime, counsel for the parties were to continue to prepare for trial” (Orrick, 1983). This deadline undoubtedly helped focus the energies of the settlement team and they came up with a “final settlement team agreement” in September 1982. After consulting with a court-appointed law firm, the team submitted a formal Consent Decree to the judge on December 30, 1982. Judge Orrick made a preliminary ruling that the “decree is fair, reasonable and adequate, and ordered that notice be given to the absentee class members and to the public . . . [and] scheduled a public hearing on the fairness of the decree for February 14, 1983” (Orrick, 1983).

According to the judge, 29 individuals or groups submitted written comments to the court and 23 elected to speak at the public hearing.

The court received the greatest number of objections from parents in the Bayview/Hunter’s Point area concerning the plans to convert [Drew] from an elementary school into an academic middle school, and to convert the Pelton Middle School into an alternative academic high school (Orrick, 1983).

In spite of detailed objections to the conversion plans by those who were supposed to be the beneficiaries of the plans, the judge had supreme confidence in the judgment of those who had no recent or direct “experience working in public schools at the K–12 level.” Judge Orrick explained that

the changes mandated by the Decree are the product of recommendations by (without overstatement) the best local, state, and national desegregation/education specialists available. These experts, after considerable study, have concluded that comprehensive changes in the academic programs at Bayview/Hunter’s Point are absolutely essential to the revitalization and enhancement of education for children of all races/ethnic groups in San Francisco. . . . While the court sympathizes with the concerns of the parents at Drew and Pelton Schools, it must defer to the opinion of the experts. . . . The Court believes that the plan, viewed as a whole, is a good one (Orrick, 1983).

Judge Orrick was similarly dismissive of the objections made by a representative of the Mexican American Legal Defense and Educational Fund (MALDEF) and a parent of two Hispanic students. Their objection that the decree “fails to address the need for equal educational opportunities for Hispanic students” as well as African Americans, apparently reflected

a basic misunderstanding about the nature of this lawsuit and objective of the Decree. . . . The remedy sought and the remedy proposed is system-wide desegregation. . . . It does not

address the needs of any particular racial or ethnic group. . . . In addition to the relief provided at the Bayview/Hunter's Point Schools, the Decree requires by September 1983 a reduction in the percentage of students from the dominant racial/ethnic group in all other historically segregated schools in the district. MALDEF's contention that the proposed decree does not address the educational needs of Hispanic children is simply incorrect. (Orrick, 1983).

Furthermore, the judge warned MALDEF against filing a separate suit since "a class of Hispanic students filing suit separately could not obtain any fuller desegregation relief than that mandated by this Decree" (Orrick, 1983). One speaker at the hearing questioned whether the NAACP was able "to represent all the racial/ethnic groups" in the city. Judge Orrick was not moved, explaining "The Court finds that plaintiffs' counsel throughout the litigation represented the interests of all class members in an exemplary fashion." Judge Orrick defined the goal of all of the class members as "complete desegregation of the district" and "found" that the Consent Decree achieved such a goal, so, ergo, the NAACP lawyers achieved the goals of everyone. That "29 individuals or groups" believed that their goals were not achieved by the Consent Decree did not undermine the judge's supreme confidence in the judgment of experts to determine the greatest good for all.

Representatives from the two teachers' unions in the district expressed dismay at the terms of the settlement. They pleaded with the judge to add, at the very least, a provision to the Consent Decree stating the district's responsibility to continue to abide by the terms of the union's contract. But Judge Orrick saw no reason to do so since he viewed the district administration as representing the teachers. When several people spoke to the lack of a clear role for the community in developing the details of the Consent Decree, the judge assured them that "this Decree purports to be nothing more than a framework for desegregation that will be greatly enhanced by input from others, including members of the community." No special provisions for community input were required since "the Court is satisfied that the parties are committed to considering and incorporating valuable suggestions made by speakers at the fairness hearing." Since the "Court is not the local superintendent of public schools or the state superintendent of public instruction . . . it cannot substitute its judgment of what constitutes a good academic program for that of these elected officials." Judge Orrick's trust in the appointed district superintendent led him originally to reject a suggestion that an outside monitor was needed to ensure that district officials fulfilled the demands of the Decree (Orrick, 1983). Judge Orrick's assumptions concerning the judgment of the experts and ability of the district and the NAACP to represent everyone else's interests as well as their own would soon prove unwarranted.

In 1980, Judge Orrick had warned the NAACP lawyers that they were highly unlikely to be able to prove in court that the SFUSD was a "dual system" before 1954 because their evidence was of "dubious validity." But in defining the goal of the Decree as the "complete desegregation of the District," the judge was acknowledging the existence of a segregated system, although he insisted that the people responsible for running the system were not aware of the "segregative" effects of



their practices.<sup>8</sup> Given the judge's position, the NAACP lawyers were forced to retreat to their fallback position — creating a prestigious, alternative academic high school in BayView or Hunter's Point. This position, however, did not represent the interests of the African American parents of the neighborhood who had recently fought and won for themselves brand new elementary and middle schools. Nor would it serve the majority of students who would not qualify to enter a newly created, prestigious high school. Judge Orrick and the experts were, essentially, asking some students (who would be bused out of the neighborhood) to lose while others (those who would be bused into the neighborhood) gained because the NAACP couldn't prove "segregative" intent and the district was not willing to desegregate the entire district unless forced to do so.

The only real point of agreement between the district and the NAACP lawyers was about the role of teachers in the disproportionate failure rates of poor and minority students. Judge Orrick noted that the NAACP lawyers

alleged that faculty hired by the district possess racially prejudiced attitudes toward minority school children, which attitudes have had the effect of denying minority students equal educational opportunity (Orrick, 1983).

Peter Cohn explained that the NAACP lawyers visited many schools and walked into classrooms unannounced. What they saw was not just shoddy teaching but reprehensible practices. Cohn admitted that teachers are in the best position to identify those schools in the district that were in the most trouble, but since the union had not taken a proactive role in pushing for educational reform, he and his colleagues could not rely on the teachers to effect reform (interview, 11/30/01). That teachers, by state law, were not allowed to be "pro-active" in educational reform did not seem to factor into Cohn's thinking.<sup>9</sup> Instead, the NAACP lawyers agreed with the district that when children fail in school, it is due to bad teaching. Both parties willingly agreed that to improve four schools in the Bayview/Hunter's Point area they would have to be reconstituted. Judge Orrick ordered that

- Σ SFUSD shall declare all staff and administrative positions in the Bayview-Hunters Point Schools open and shall reconstitute the staff and administration of those schools on the basis of a desegregation plan *developed by SFUSD* and submitted to Court (paragraph 18).
- Σ The plan . . . shall focus on improving both the educational quality of the schools and the public perception of the area (paragraph 19).
- Σ Dr. Charles Drew School shall be converted into an academic middle school with an academic program with *high quality standards*. . . . Counseling staff shall be provided to *help prepare Drew students for the Lowell High School program*. Transportation shall be provided for students coming from outside the attendance areas (paragraph 20).
- Σ Sir Francis Drake Elementary School shall be converted from a basic K–5 elementary school to a *computer-assisted instruction and computer science and awareness* elementary school (paragraph 21).
- Σ Dr. George Washington Carver Elementary School shall be *converted into an academic school* (paragraph 25).
- Σ Pelton Middle School shall be converted into an *alternative traditional Academic High*

School and shall be renamed San Francisco Academic High School . . . [and] have a curriculum and program *modeled after Raoul Wallenberg High School* (paragraph 28).

- Σ A coordinated public information effort aimed at dealing with public stereotypes about the Bayview–Hunters Point area shall be undertaken by the SFUSD in consultation with State Defendants (paragraph 31).
- Σ *The SFUSD, in consultation with the State Defendants, shall develop* and submit to the Court and parties . . . *a comprehensive staff development plan* and budget necessary to implement the provisions of this Decree. The plan and budget shall include up to six days per year of staff development. . . . The training shall address areas . . . such as the following: student discipline procedures and goals; *academic achievement and performance goals*; teaching in a diverse racial/ethnic environment; parental involvement; and the desegregation goals and provisions of this Consent Decree (paragraph 36) [italics added].

Judge Orrick’s “framework” as outlined above kept the discussion of educational reform well within the confines of the California Business Roundtable agenda. The primary goal was academic excellence, not desegregation, and computer technology was considered a key element in making a school prestigious enough to draw middle-class white and Asian American students to Hunter’s Point. Furthermore, it was district administrators *not* in collaboration with community members who were to design both the desegregation plan and staff development.

Given the authority to do so, district administrative staff immediately set about writing the *Special Plan for Bayview–Hunter’s Point*. The plan consisted of seven “components,” using terminology that is consistent with the Business Roundtable’s *Nine Components*.

1. Administration, faculty and staff positions were vacated (reconstituted), and new personnel were hired who were committed to the Consent Decree goals and the Philosophical Tenets.
2. The Philosophical Tenets established high expectations for learning and behavior of all individuals. (There were twelve Philosophical Tenets. The eighth stated, “If individuals do not learn, then those assigned to be their *teachers* will accept responsibility for this failure and will take appropriate remedial action to ensure success<sup>10</sup>) [my emphasis].
3. Specific and explicit student outcomes were delineated for each subject at each grade level.
4. Technology-rich environments were available for teaching and learning.
5. Flexibility in adult-student ratios allowed for small group instruction and closer adult attention at various times throughout the day.
6. All personnel participated in extensive professional development related to the Consent Decree goals.
7. Each school was given a unique instructional focus (Rojas, 1999; p. 6).

An eighth “component,” parental involvement, was added later. During the summer of 1983, the district began to implement the *Special Plan*.

Judge Orrick’s 1983 opinion and order did indeed create the “framework” within which systemic reform was able to take root in the SFUSD. Ostensibly it was a framework by which the school district would eventually be desegregated. Yet because of the judge’s confidence in the experts from Boston, Miami, and Chicago to know what was best for San Francisco schools, and because of his desire to give the SFUSD district administration control over the definition of strategies and tactics to “eliminate racial/ethnic segregation” and “achieve academic excellence throughout SFUSD,” the emphasis was eventually placed on the SFSUD, as defined by the

Business Roundtable's campaign. Jorge Ruiz-de-Velasco described the process as one in which the school board and the superintendent "co-opted the court regime" (1998; p. 2). The superintendent was able to seize the initiative from the NAACP since the district was the one responsible for defining implementation as well as acting upon those definitions and then providing the data by which they would be judged as to whether they had fulfilled their own definitions of success. It would be a formula that ended up hiding a multitude of sins.

Judge Orrick's confidence in national experts and district administrators was such that he could write in 1983 that "complete desegregation of the San Francisco schools" would be achieved "in the next few years." Yet immediately in August 1983, the "framework" was not working. The parents of both Pelton and Drew continued to oppose the plan. The Reverend Cecil Williams, chair of an 18-member committee appointed to advise the district on implementation, argued that implementation should be delayed so that parents could be brought into the design process. He predicted that the plan would not work unless parents wanted it to (*San Francisco Chronicle*, 8/10/83). Simultaneously, the NAACP filed a "show cause" motion accusing the district and state of not taking steps needed to implement the plan (*San Francisco Chronicle*, 8/11/83). Ten days later, Bayview-Hunters Point parents filed suit to prevent the district from closing Drew Elementary.

When the schools opened that September, district buses arrived in the neighborhood of Drew to take the elementary students to other schools in the city. The buses were met by picket lines of parents and their supporters, preventing the buses from transporting the children for two hours (*San Francisco Chronicle*, 9/9/83). On September 19, four people, including the Reverend Cecil Williams, were arrested for blocking school buses. Williams explained to the *Chronicle* reporter, "integration will never work unless the people of Bayview-Hunter's Point are included" (9/20/83). On September 22, the 198-member bus driver's union voted unanimously to honor any future picket lines by Drew parents (*San Francisco Chronicle*, 9/23/83). The situation was finally resolved when the school board voted 6-1 to reopen Drew as a prekindergarten through second grade school (subject to approval by NAACP and Judge Orrick). The Drew parents had wanted complete restoration of the PK-5 school (*San Francisco Chronicle*, 11/4/83).

Pelton parents were not as successful as the Drew parents in opposing the reconstitution of their school. On February 21, 1984, the school board voted 5-2 to move Pelton students to another site. Pelton Middle School was reconstituted and renamed, becoming the Philip and Sala Burton High School. When the parents complained about not being part of the planning process, the superintendent told them they were forbidden from doing so by the Consent Decree (*San Francisco Chronicle*, 2/22/84).

### ***From Desegregation to Reconstitution***

What happened between 1983 and 1992 is not completely clear. Ruiz-de-Velasco (1998) describes the period as one of "grudging implementation of the Decree" (p. 10). Fraga (1998) argues that

district superintendent Alioto was fired in 1985 “because of his vigorous enforcement of the Consent Decree” in the face of white and Chinese parents who objected to the integration of their schools. There was also the sense that the new superintendent, Cortines, was hostile to the Decree during his tenure from 1986 to 1992 (p. 78). Peter Cohn described the period of initial implementation and expansion of the Consent Decree as one of constant interaction among the superintendent, the school board, the teacher unions, district employees (at all levels), and “parent boosters” (interview with Cohn, 11/30/01). The NAACP was able to force the district to expand the number of schools receiving Consent Decree funding from the state by consistently showing the court that the district was not in compliance with the Decree. For example, the district announced that 99 percent of its students were in racially balanced schools — defined by the Consent Decree as no more than 40 percent for alternative schools, 45 percent for regular schools (*San Francisco Chronicle*, 7/27/85). Yet two years later, district officials conceded that 44 percent of the students at the alternative, Lowell High School, were Chinese Americans. This was more than double their representation in the district population and 4 percent more than legally allowed (*San Francisco Chronicle*, 6/18/87). An editorial in the *Chronicle* foreshadowed how the Consent Decree would end when it argued against enforcement of the Decree at Lowell.

A well-balanced school population is a desirable concept, but Lowell has long attracted a citywide selection of scholars that has made it one of the most prestigious secondary schools in the country. Its enrollment should not be confined to a strict ethnic percentage [(6/24/87); test scores and GPA are the criteria of selection at Lowell].

Waldemar (Bill) Rojas, who was the district superintendent from 1992 to 1999, argued in his dissertation that the tree reconstituted and two newly created schools in 1984 “built a system of success for African American and Latino students” (1996; p. 3). Like the BRT, Rojas relied on test scores to define “success.” Rojas compared the CTBS scores of the originally *reconstituted* schools in 1984 (called Phase I schools) with those that were merely *targeted* (16 schools — called Phases II through IV — from 1985 to 1990). Targeted schools received Consent Decree funds for special programs, but were not required to adhere to the *Special Plan* of the Decree. That the reconstituted (Phase I) schools maintained higher average test scores than the district average and also higher than those targeted (Phase II-IV) schools led Rojas to conclude that an “assertive approach” in which the *district* “defines the structure of each school and the steps toward reaching the goals” (p. 46) resulted in “excellence and equity for all children” (pp. 3–4). In *Benefits of the SFUSD Consent Decree*, Rojas (1999) argued, “one of the earliest measures of academic improvement in [these schools from 1983 to 1985] is evident in the scores on the former California Assessment Program” (p. 8). Rojas pointed to continued improvement of the original Consent Decree Schools by citing CTBS scores from 1992 to 1995 (1999; pp. 9-10).

Goldstein (1998) points out, however, that Rojas paints with too broad a brush when citing improvement on standardized test scores. For example, three Phase II middle schools (Lick,

Potrero Hill, and Visitacion Valley) performed as consistently as two Phase I middle schools on the mathematics tests (p. 8, fn. 9). Two other targeted schools, E.R. Taylor and Commodore Stockton, improved their scores much more than Phase One Schools (p. 10). African American students who transferred out of Bayview–Hunter’s Point “performed higher than African American students in both Phase I” and targeted schools (p. 8, fn. 8). Since the scores were not tracked according to individual performance, high scores in Phase I schools “may well be attributable to the influx of higher performing students” (p. 10).

These concerns, however, were never raised until the end of Rojas’ tenure as superintendent. The Consent Decree had instead created a framework within which district administrators were able to connect test scores (“academic achievement or performance”) inextricably with desegregation. If the district could create schools in which African American and Latino students would score as well as whites and Asian Americans, then the racial imbalances would right themselves. High-performing blacks and Latinos would be able to compete successfully with high-performing whites and Asian Americans to enter the prestigious alternative schools, in numbers not exceeding 40 or 45 percent of their respective racial/ethnic group (with the corollary, never publicly addressed, that low-performing students would be left in less prestigious, more poorly funded schools). By 1990, this had not happened and the NAACP requested that the judge appoint another panel of experts to investigate why. Judge Orrick appointed Gary Orfield to once again chair the panel of experts (Robert Green, Gordon Foster, David Tatel, and Barbara Cohen). From November 1991 to June 1992, the panel gathered their data from the school district. Their interviews with district administrators “and other parties” were “confidential private discussions”

The goal of the committee was . . . to recommend ways to improve the desegregation plan. Our goal was to examine issues fully so that it would be possible to find evidence sufficiently convincing to win the agreement of experts chosen by all of the parties (Orfield, 1992; p. 15).

*The goal was not to “win the agreement” of teachers, parents, students, or other interested members of the community.* The experts assumed that to eliminate obstacles in the way of integration would not require the knowledge or cooperation of members of the community. Instead, they continued to assume that teachers were obstacles to be retrained (to change their attitudes) through district-designed programs, or be removed. The experts’ report called for a “major push” for the cooperation of “other basic community institutions and for increased parental involvement.” Yet these are the very groups excluded by the decision-making process, a dynamic that may explain why the Consent Decree “is little understood . . . by the broader community” (p. 2). The experts “urge[d] the decision makers to . . . keep a strong focus on the needs of African American and Hispanic youth” but never allowed these students to help the experts understand why they dropped out or were pushed out in disproportionate numbers (p. 82).

The experts relied instead on district data and interviews with NAACP lawyers to arrive at their conclusions.

The implementation of the Bayview–Hunters Point model of school reconstitution — with staff selection and training built around a philosophy of opportunity for all children — did work [integrated schools, higher test scores, and lower dropout rates]. Reconstitution, under the first phase of the Consent Decree, involved selecting a new principal and recruiting an entire new staff at a school, committed to the goals of the Consent Decree. The Decree also required special efforts to hire more minority teachers and to ensure that all teachers are equitably assigned throughout the system. These goals have not been reached, and this report calls for renewed efforts to accomplish those goals.

The Decree called for assuring equity in many aspects of district operations including assignment to special education, discipline, bilingual education, and other arenas. We propose new methods for reaching the goals in these areas.

The committee’s work shows that the district must do more than it has done to educate Hispanic and African American children. Clearly there is a social and economic crisis of great severity in the inner city and the schools need the support of other basic community institutions in their efforts; we call for a major push for such cooperation. . . .

We recommend that more schools be required to undergo fundamental transformations like those that occurred in the Bayview–Hunter’s Point area. There should be deadlines for schools receiving Consent Decree funds to produce clear gains for student outcomes. When schools succeed they should be rewarded with increased flexibility in managing their educational program. If a school fails, after adequate notice and special training assistance, a new principal and a newly recruited faculty should be appointed (Orfield, 1992; pp. 5–6).

Orfield’s committee made over fifty specific recommendations. Many of these recommendations were embodied in a compromise document agreed upon by the parties’ lawyers and called the parties’ *Second Joint Report* (October 1992). When the teachers’ union objected to their lack of participation in the process, the judge observed that they had no legal right to do so, based on his previous decisions. Attorneys representing the Chinese American Democratic Club and Multicultural Education, Training, and Advocacy, Inc. (a Latino nonprofit organization) argued to be part of the overseeing committee. They were concerned that the needs of Limited English speakers were not being met (Fraga, 1998; p. 79).<sup>11</sup> Their motion also was denied. One of the committee’s recommendations adopted in the *Second Joint Report* directed the district to reconstitute three Phase II–IV schools per year. It would be this recommendation that the new superintendent, Bill Rojas, would seize as his signature issue. The experts had recommended the expansion of reconstitution because they believed that the evidence supplied by the district proved that it had been effective in raising the achievement levels of the students in Phase I schools. But Goldstein (1998) points out that

even accepting the expert panel’s conclusions about heightened achievement in the Phase One schools, it is not clear that the evidence fully supported the expansion of all aspects of reconstitution as a remedy. It is particularly not clear that vacating the adults led to heightened performance. . . . First, seven other components of the Phase One reforms may have led to the successful turn-around of the Phase One schools independent of vacating the adults. . . . The experts did not and cannot isolate which of the reforms actually caused the improved achievement in the Phase One schools. . . . Second, there is evidence showing that vacating the adults alone, without implementing the other Phase One components [which

included more money, smaller class sizes, renovated buildings, and new equipment] may not lead to improved school performance. . . . Finally, reconstitution was expanded as a remedy for failing schools in San Francisco without a firm understanding of the educational illness in the first instance . . . Reconstitution as a remedy assumes internal organizational failure (pp. 9–10).

Perhaps the experts' faith in reconstitution was influenced by the gathering momentum of the BRT-driven high-stakes testing movement that began in earnest in 1989. Rojas certainly was not concerned with any theoretical inconsistencies or bothered by contrary evidence. In 1996, when such inconsistencies and evidence were becoming apparent, Rojas would write in his doctoral dissertation that reconstitution was successful in raising the scores of all students and especially African Americans because it

Commits the persons in the school system to the rules and principles of excellence and equity for all children (p. 4).

Provides an expeditious path for school change and the development of an educational structure that espouses the goals articulated by the District through the superintendent and the school board (p. 6).

Create[s] an opportunity for a new culture in which the belief system is one of high expectations and the success of all children (p. 25).

In 1999, Rojas authored the district publication *Benefits of the SFUSD Consent Decree*. Even the title of the document concedes the minor role that Rojas consigned to the NAACP lawyers and their interests as he chose how to prioritize the court orders and committee recommendations and which to pursue and how. In *Benefits*, Rojas explained

the Committee of Experts [1992] called on the district to recommit itself to the original goals and vision of the Decree by focusing on the low achievement levels of targeted — African American and Latino — students, and replicating Phase I (p. 13).

Under new leadership [Rojas is referring to himself here], the SFUSD began the process of recommitment to the goals of the Consent Decree through raising expectations and increasing accountability for the achievement of students throughout the district. A key element of this new district-wide focus on accountability was provided by the order of the court — following the recommendation of the Committee of Experts and a stipulation of the parties of the Consent Decree — that three targeted schools be reconstituted annually until student achievement improved among targeted students throughout the Consent Decree (p. 14).

I don't think it is a coincidence that Rojas' language and focus (achievement and accountability) completely mirror the language of the business-led state and national movement.<sup>12</sup> The year of Orfield's report and Rojas' appointment was four years after the national BRT met to establish its educational agenda, three years after President Bush (père) convened the national

governors' educational summit and one year after passage of SB 662 by the California state legislature (see Chapter 6). Nor do I believe it is a coincidence that Rojas focused on test scores as the criterion by which to judge the success or failure of students, teachers, parents, and schools. And it is not a coincidence that by 1997, Rojas had become "a national spokesperson for both increased equity and higher academic standards" (Biegel, 1997; p. 8).

Orfield's committee accepted test scores as the bottom line indicating academic achievement and concluded that desegregation had been achieved in "all buildings" and "80 percent of classrooms" (p. 22). But when the committee wrote about the "devastating levels of educational failure," it was not referring merely to test scores. When the NAACP periodically dragged the SFUSD back into court, it was not doing so because the test scores of African American and Latino students continued to lag behind those of whites and Asian Americans. Orfield (1992) and his committee believed that

the Consent Decree had *two* related goals: improved academic performance and the desegregation of the city's schools.<sup>13</sup> We conclude that the District has not realized the goals for academic achievement for the overwhelming majority of African American and Hispanic students in the critical areas of educational attainment, *dropouts, special education, placement, and suspensions from school*. We conclude that the district has *largely achieved* the Decree's desegregation goals. We recommend that the district take strong leadership in rededicating itself to the *goals* of the Decree, that it build upon those programs developed under the Decree that have succeeded for African American and Hispanic students and that all Consent Decree expenditures be evaluated by the extent to which they actually improve educational *opportunity* for African American and Hispanic students (p. 1) [italics added].

Rojas believed that the above conclusion charged him with the responsibility for developing a system by which "low achieving" schools would be identified for the purposes of reconstitution "until student achievement improved among targeted students throughout the Consent Decree" (Rojas, 1999; p. 14).

The Consent Decree directs the district to pursue continued and accelerated efforts to achieve academic excellence throughout the SFUSD, and to eliminate disparities in achievement between groups of students (Rojas, 1999; p. 15).

Rojas believed he could abandon desegregation as a goal since he interpreted "largely achieved" as a done deal.

According to Judge Orrick in 1983, the "major goal" of the Consent Decree was "to eliminate racial/ethnic segregation or identifiability in any district school program or class and to achieve throughout the system the broadest practicable distribution of students from nine racial and ethnic groups" (Orrick, 1983). By 1992, Orfield had identified "two related goals" of the Consent Decree as desegregation and educational equity. By 1999, Rojas defined the goals of the Consent Decree as "excellence for all." Furthermore, Rojas had narrowed the judge's definition of "academic achievement" primarily to CTBS test scores. The "variety of measures" used to determine whether



the SFUSD has met the goals of the Consent Decree were “districtwide growth on standardized tests,” “reduction of percentage of students scoring in the bottom quartile,” “growth in CTBS scores over the past six years for the district’s African American and Latino students,” and “staff and student diversity”<sup>14</sup> (Rojas, 1999; pp. 15–22).

### ***Reconstitution and Resegregation***

It would seem that Rojas, in the process of making a national name for himself, fully embraced the BRT’s high-stakes, data-driven agenda (to the point that generating data in and of itself seems to be the goal of reform). Rojas argued in his dissertation (1996) that reconstitution should be expanded as the district’s accountability tool since “the academic rigor of the programs in Phase I elementary and middle schools may result in an increased number of [African American, Latino, and Native American] students in schools like Lowell” (p. 143). If there was “close monitoring of the educational program” of “all schools,” then, Rojas predicted, the “goal of academic excellence” will be achieved “for all students” (p. 143). Rojas observed that the “expansion of CSIP to [the entire district] has . . . been instrumental in promoting interest in student achievement data that have been generated districtwide for many years. . . . Since the inception of [CSIP], teachers and administrators in every school review the data closely. This information is most interesting to schools that experience limited success in meeting the district goals regarding student performance” (1996, pp. 128–129).<sup>15</sup> That test scores rose in the district during his tenure as superintendent was supposed to prove that such data-driven reform was effective.

Goldstein (1998), however, found that any “improvements” were “determined largely by the ability of school leaders and staffs to beat the odds” since the district provided little or no support apart from generating data. Furthermore, improvement occurred “in spite of the district’s predictions of failure” (p. 27).

Under superintendent Rojas, the District has begun to employ reconstitution as a remedy and an incentive to prompt improvement in failing schools. In this dual capacity, reconstitution is the hammer looming behind the school improvement process (CSIP) that failing schools are supposed to employ in an effort to raise student achievement. With the hammer in place, some schools have improved and others have languished in what appears to be an idiosyncratic fashion. Meanwhile the use of reconstitution has had deleterious effects on San Francisco’s teachers — their morale, their relationship with the district, their sense of professionalism — and has reduced the presence of experienced teachers at reconstituted schools, while increasing instability overall. Further, the hammer and CSIP have become tightly linked in the minds of teachers and the San Francisco community. The result is a school improvement process that is perceived to be doomed from the outset (Goldstein, 1998; p. 31).

The court appointed monitor, Stuart Biegel and his team,<sup>16</sup> found in 1997 that such top-down systemic reform seemed counterproductive. The monitoring team’s report suggested that the renewed effort by the teacher’s union to become part of the process might make CSIP and

reconstitution less hit or miss.

It is difficult to attract dedicated, experienced teachers to reconstituted schools. Many feel the reconstitution label will stigmatize them. Some are so disheartened by reconstitution that they do not reapply for positions at their home school. While not “reconstituted” herself, one teacher noted that a colleague who had just undergone the process the year before still describes it as the most demoralizing, heartbreaking experience of his life. In this environment, retaining reconstituted teachers seems to be a tough challenge.

The result of this difficulty in attracting seasoned educators to apply to reconstituted schools is a surplus of new and inexperienced or noncredentialed teachers filling slots at reconstituted schools. This situation reduces the seasoned teacher’s perspective and leaves novice teachers without mentors. High turnover rates at reconstituted schools, in part because of one-year renewable contracting, can further exacerbate the situation. Thus the ability to transform a school by creating a community dedicated to mutual goals may be tempered by the inability to attract teachers to what is sometimes perceived as a “sinking ship” (Biegel, 1997, p. 103).<sup>17</sup>

Such a result is not surprising from a process that started with the premise that if students didn’t learn it was the teacher’s fault and at the same time prevented teachers from participating in both the development of policy and the specifics of implementation. It is difficult to understand how the district schools could be continuously improving while destroying the morale of its teachers.

Nevertheless, the Court monitors were pleased with Rojas’ “enthusiastic embrace” of the Consent Decree goals.

Generally, the monitoring team concluded that from 1992 to 1997, there is evidence of positive growth and change. . . . While this positive turn of events is very encouraging, it must be noted that there are still some basic Consent Decree compliance issues that need to be addressed. For example, while the district is substantially in compliance with regard to school-by-school desegregation, it has not yet achieved comparable desegregation of programs and classrooms. In addition, questions have been raised regarding the efficacy of continuing efforts to desegregate by race without also focusing on desegregation by socioeconomic status. And while academic progress has been evident among all racial and ethnic groups at all levels, African American and Latino students continue to lag behind their peers (Biegel, 1997; p. 10)

Using data provided by the district, the monitoring team concluded that the district was “substantially in compliance . . . with regard to school-by-school desegregation” (Biegel, 1997; p. 10). But from on-site visits, members of teams observed tracking in advanced placement classes, bilingual and ESL placements, and homogenous ability grouping (p. 11). In Appendix G is the data that was included in the monitoring team’s 1997 report that showed the SFUSD in “substantial” compliance with the “school-to-school” edict of the Consent Decree. The Consent Decree identified 9 racial/ethnic categories for the purposes of redressing the alleged “dual system” of the SFUSD. Throughout the periodic alterations to Judge Orrick’s original opinion and order in 1983, the definition of “racially identifiable” remained at 40 percent for any one of the nine groups at

alternative schools and 45 percent for regular schools. While there were changes in the ratio of each of the nine groups to each other from 1983 to 1997, none of them approached 40 percent, the closest being the Chinese-Americans at 27 percent in 1997.<sup>18</sup> Peter Cohn of the NAACP explained that they had agreed to the 40/45 percent ruling because they wanted to be very careful not to demand anything that the district or state could not deliver. Yet according to the district's own data, 28 (out of 66) elementary schools, 3 (out of 17) middle schools, and 6 (out of 15) high schools could not meet such a generous limit. The monitoring team concluded that such numbers did not warrant the conclusion of "noncompliance" since these schools all hovered around the legal limits.

Yet the picture that the statistics (in Appendix G) cannot capture is the degree to which African Americans and Hispanics are concentrated in "low-performing schools" while Chinese Americans are concentrated in "high-performing schools." For example, Lowell High School is considered the district's most prestigious and highest performing school and often rated as one of the top ten high schools in the country. In 1998, 72 percent of its students were Asian American (Chinese Americans were over 50 percent), while only 6 percent were Latino and 6 percent were African American (NCES data). In 1999, the monitoring team was curious as to why there was an increase in African Americans at Lowell given the increasing segregation that they were seeing in the district since 1997. They visited the school and

found that the apparent reason for the increase in African American student numbers from 1.9 percent of the incoming class to 4.4 of the incoming class was the fact that one special ed class was added at Lowell, which included 16 African American students out of the original 25. This class was comprised of students who did not actually apply to Lowell. According to district policy, special-ed students and classes are often distributed to various schools throughout the city, outside of the regular admissions process (Biegel, 2000; p. 37).

Ida B. Wells High School is one of SFUSD's continuation high schools, schools for those students who, for a variety of reasons, are unable or unwilling to work within regular comprehensive high schools.<sup>19</sup> While both Lowell and Wells are considered "alternative" schools, they are very different in terms of the opportunities offered and pupils served. Wells has a graduation rate of 52 percent and 81 percent of its students are "educationally disadvantaged" (Wells' 1998 SARC, see my fn. 20, and see Appendix G for ethnic breakdown). Lowell's graduation rate in 1998 was 96 percent with only 5 percent of its students listed as "educationally disadvantaged." O'Connell High School, a vocational/technical school, with 76 percent of its 2001 freshman class identified as Latino, has a graduation rate of 61 percent and 71 percent of its students are educationally disadvantaged (SFUSD school profile, 2001). Lincoln High School, a regular school, is also considered prestigious with a graduation rate of 92 percent and an only 38 percent of its students labeled "educationally disadvantaged."<sup>20</sup>

The existence of a tiered school district whose schools are rated according to word-of-mouth reputation<sup>21</sup> and the disproportionate concentration of middle-class Chinese American and white

students in those prestigious schools remained “substantially” unaffected by the Consent Decree. This was partly due to racial caps that were far higher than the actual percentages of students in each of the nine ethnic categories. But part of the cause can be attributed to staunch resistance to the goals of desegregation exacerbated by segregated housing and testing.<sup>22</sup> Many Chinese American parents in San Francisco believed that their children deserved to go to the prestigious schools in disproportionate numbers because they were better students as defined by their grades and test scores. This view was reinforced publicly. A *San Francisco Chronicle* editorial labeled the district requirement that Chinese American students must “earn a district rating based on grades and test scores that [is] higher than those of other students” as “discriminatory treatment” (2/29/96). A *San Francisco Examiner* editorial commented that “almost everybody agrees that . . . [allowing] applicants [to Lowell] from other racial and ethnic groups [to] gain admission with scores and grades somewhat lower than those required of Chinese students . . . is discriminatory” (1/2/96). *San Francisco Chronicle* columnist Ken Garcia was more blunt in describing the district’s attempts to keep Chinese American student enrollment at Lowell below 40 percent as an attempt to “dumb down . . . the top public high school in the city” (11/23/99). The Lowell High School Parent, Teacher, and Student Association wrote in a letter to the school board, “the pool of students for Lowell should include *all* students who meet the entrance requirements of grades and test scores” [original emphasis] (*San Francisco Chronicle*, 10/13/99). That year’s freshman class was 52 percent Chinese American and 20 percent white. Arguments defending diversity as an important educational goal were rarely, if ever, publicly spoken.

In 1970, Many Chinese Americans resisted integration by boycotting district schools and setting up Chinese Freedom Schools. Several groups representing Chinese American students attempted, like MALDEF and the teacher’s union, to gain a role in the decision-making process of the Consent Decree but were denied. Perhaps sensing the effect of the national movement to replace desegregation with “equity and excellence,” several Chinese American students who failed to be admitted to Lowell High School filed suit against the district and the state in July 1994 (hereafter referred to as the Ho case or settlement). They charged that the student assignment plan of the Consent Decree “constitutes race discrimination in violation of the equal protection clause of the Fourteenth Amendment of the United States Constitution” (Orrick, 1999). By 1998, the process had reached the Ninth Circuit on appeal. The Ninth Circuit ruled that issue for a trial was whether or not the defendants could “demonstrate that paragraph 13 is still a remedy fitted to a wrong — to show that the racial classifications and quotas employed by paragraph 13 are tailored to the problems caused by vestiges of the earlier segregation” (Orrick, 1999). Apparently neither the SFUSD nor the NAACP was prepared to provide such evidence by the scheduled trial date of September 22, 1998. Attempts at a settlement failed and a new trial date was scheduled for February 16, 1999. In response to plaintiffs’ motions, the Court

ordered the SFUSD to file, by February 1, 1999, a proposed student assignment plan that was

not race based, and that could be implemented in time for the 1999-2000 school year if defendants did not prevail at trial. On February 16, 1999, the day trial was to begin, the parties requested that the start of trial be delayed so that they could finalize a settlement. . . . The Court tentatively approved the settlement and set a fairness hearing for April 20, 1999 (Orrick, 1999).

Judge Orrick argued that the settlement was “fair” primarily because the plaintiffs were more than likely to win their case.

The Supreme Court has placed severe restrictions on the use of racial classifications by governmental entities. . . . In the Ho action, the Ninth Circuit held that “racial balancing cannot be the objective of a federal court unless the balancing is shown to be necessary to correct the effects of government action of a racist character.” (Orrick, 1999; 147 F.3d at 865). . . . It is apparent to the Court that defendants in the Ho actions were having great difficulty trying to prove that any current problems in the SFUSD were caused by governmental discrimination prior to 1983 . . . the evidence submitted by defendants of the alleged vestiges of past racial discrimination is conclusory and anecdotal. . . . There was little likelihood that defendants would be able to prove that the race-based student assignment plan was still constitutional today in light of the very strict burdens of proof imposed by the Supreme Court and the Ninth Circuit. Accordingly, this factor favors a settlement (Orrick, 1999).

Other factors favoring a settlement, according to the judge, were the likelihood that the trial would be lengthy, complex and expensive; likelihood of further appeals “probably all the way to the Supreme Court”; the long duration of litigation would be “racially divisive”; and threatened to undermine the definitions of existing classes including “the propriety of the Ho class itself in light of the different needs of limited English proficiency of Chinese students when compared to those Chinese students who are proficient in English” (Orrick, 1999).

When Gary Orfield testified at the fairness hearing that the settlement would re-segregate SFUSD, Judge Orrick dismissed his argument by explaining that the settlement did not preclude the district from “attempting to ensure that each school has a diverse student body. . . . The settlement merely precludes the SFUSD from using race or ethnicity as the primary or predominant consideration in determining student admissions” (Orrick, 1999). Judge Orrick explained that the only reason that the number of Latino and African American students in the freshman class at Lowell dropped for the 1999–2000 year was because of the haste with which the district put together a student assignment plan for Lowell. Yet in the same document, the judge had ruled that the district had enough time to put together a plan (Orrick, 1999). The plan, however, had been derailed at a school board meeting when “more than one hundred people attended the meeting” and persuaded the school board to withdraw their proposed plan (*San Francisco Chronicle*, 10/13/99). Biegel (2000) wrote that the district failed to adopt the fall 1999 assignment plan “for reasons which remain unclear” (p. 6).

The fight over assignment plans to Lowell affected the entire district. The Ho plaintiffs challenged the districtwide Consent Decree because they were not able to get into Lowell. In win-

ning their case, they succeeded in eliminating race as a factor in student assignments not only to Lowell but also to all schools in the district. This paved the way for a return to the severe segregation that existed before 1983. Daniel Girard, the attorney for the Ho plaintiffs, identified the significance of the case: “the Ho case is not limited to the issues raised by the Lowell admission process. The Ho case is about the district policy of using race in assigning students throughout the district long after the justification for race-conscious assignment policies has ended.” Orfield’s testimony before the judge predicting increased segregation as a result of abandoning “race-conscious assignment policies” was no longer a persuasive argument. The political climate and demographics of San Francisco has dramatically changed since 1983. As I demonstrated in Chapter 5, the “intangible” effects of segregation that had led to *Brown v. Board* had been supplanted, beginning in 1989, by test scores as the litmus test for educational equity. As Orfield predicted, and as the Consent Decree monitoring team discovered, during the very next year after the final Ho settlement “approximately 16 elementary schools, 3 middle schools, and one high school have shown severe re-segregation at the incoming class level” (Biegel, 2000; p 7).

The conflict over Lowell admissions criteria affected the district in another profound way. It acted as a powerful hammer blow on the wedge between middle-class Chinese Americans and blacks and Latinos. The wedge had been inserted as far back as 1882 when the U.S. Congress passed the Chinese Exclusion Act. It was driven in further when San Francisco decided to create separate schools for Asian Americans in 1906. In 1994, a year after Chinese American students sued the district because they were denied access to Lowell based on their test scores and grade point averages, black and Latino students who had been accepted to Lowell decided not to go. Ninety-one Latino and 46 African American students were admitted to the fall 1995 year at Lowell. But only 66 Latinos and 26 blacks actually enrolled (*San Francisco Chronicle*, 12/21/95). The debate over the Ho case, instead of clarifying the goals of diversity, firmly established “academic excellence” and desegregation as mutually exclusive. One of the Ho plaintiffs explained her position by telling a *San Francisco Chronicle* reporter that “we’ve worked so hard to get good grades, and now we can’t go to a decent academic high school that is safe and will prepare us for a four-year university”<sup>23</sup> (*San Francisco Chronicle*, 6/19/95). In 1993, when Chinese students and their parents began to increase the volume of complaints over being excluded from Lowell, the district set up a committee to begin to rewrite the Lowell admission policy. The Chair of the Committee, Carol Kocivar explained, “we have to find a solution that meets the needs of both sides . . . on the one side, there’s the issue of social justice and integration. On the other, it’s a merit-based school, and we should reward kids who work hard” (*San Francisco Chronicle*, 6/21/95). Whenever “social justice and integration” are pitted against “merit,” the latter prevails. Middle-class liberals and conservatives, the majority of the 35–40 percent of registered voters who vote, perhaps perceive social justice as a threat to their status that they justify by their superior “merit.”

## *Alignment of District and State Policy*

“Merit-based” systemic reform in San Francisco successfully replaced desegregation efforts in San Francisco. It was perhaps this success that convinced state legislators that it was time to adopt reconstitution on a statewide basis. On January 19, 1999, California State Senator Alpert introduced the first draft of the Public School Accountability Act to the Senate. The next day, January 20· Bill Rojas wrote a letter to Gary Hart, Secretary for Education under Governor Pete Wilson in which he explained the reasons for sending to him, along with the cover letter, documentary evidence of SFUSD accountability system. Rojas had met with Hart the week before. Referring to that meeting in a letter to Hart, Rojas explained how “delighted” he was

to learn the direction that you [Hart] and your team are taking regarding school accountability. Based on our experience in San Francisco School District, this direction holds great promise. . . . My dissertation strongly supports this and gives a comprehensive, detailed view of the district’s reform efforts to improve low-performing schools. . . . The accountability at SFUSD is guided by the district’s values aimed at educating all children. . . . The primary objective of the accountability system is to support data driven decision making by school administrators and teachers to improve teaching and learning throughout the district. Schools develop a school site plan for meeting the learning needs of their students. The school site plan becomes the key driver or management tool to implement and monitor progress and ensure acceptance of responsibility for student achievement. . . . In addition to the district values, *each year I set priorities that guide planning for the district.* . . . As an example, my number one priority for this year is to raise the academic achievement level of African American, Latino and English Language Learners to the 50 percentile as measured by a standardized test [italics added].

It appears that Rojas, in his meeting with Hart, had offered him “and his team” a case study in how the high-stakes testing agenda of the BRT could successfully “make Plessy work.” During the next few months, the Public School Accountability Act (PSAA) underwent the amendment process in both the House and the Senate. While that process was underway, Judge Orrick forced the SFUSD and the NAACP to retreat and settle on February 16, 1999. The governor signed the PSAA on April 5 and the judge scheduled a fairness hearing for the Ho Settlement for April 20<sup>th</sup>. Since the spring of 1997, the San Francisco teachers’ union had been negotiating with Rojas to shift the emphasis of his accountability system (CSIP/Reconstitution) away from test scores and towards site-plans and school portfolios (Biegel, 2000; p. 9). [See Appendix F.]

Negotiations between the district and the teachers in the School Accountability Process were unofficially terminated in the fall of 1999 as SFUSD officials chose instead to buy into California’s new Immediate Intervention/Underperforming Schools Program (II/UPS). These shifts of direction initially resulted in an additional level of tension between the district and the teachers’ union, but by the end of the 1999–2000 academic year a Labor Management Community Advisory Committee had begun work toward developing a process that would hopefully lead to improved II/UPS collaboration (Biegel, 2000; p. 9).

The court monitor's expectation that teachers would cooperate more readily with state reconstitution (II/UPS) rather than district reconstitution was tempered a few pages later when Biegel expressed a certain frustration with Rojas' focus on test scores and then noted the direction reform was heading on the state level.

As we have pointed out year after year, research in the area of educational assessment and evaluation points unequivocally to the centrality of a basic principle in this area: relying on *one* standardized test to measure anything is at best inappropriate and at worst a very dangerous practice (Biegel, 2000; p. 11) [original italics].

Cutting against these research-based imperatives, however, is the state's ongoing effort to tie a growing number of programs and policy decisions to the results on only one test — the STAR test (a.k.a. SAT-9). . . . The monitoring team has found that as a result of this increased focus on the scores of this one test, individual school sites in San Francisco have understandably begun to devote more time to test preparation exercises and activities. To the extent that these activities help build basic skills, they can serve a valuable purpose. But at a certain point, test preparation crosses the line and ceases to be a valuable educational activity. At a certain point, it serves only a narrow cognitive function, taking away from time that can and should be spent developing the student's writing skills, problem solving skills, higher order thinking skills, and creative abilities in general. Thus we urge members of the SFUSD community to monitor closely the nature and extent of test preparation activities in individual schools and supplement this monitoring with relevant staff development so that an important curricular balance continues to be maintained (Biegel, 2000; p. 13).

The monitoring team did not point out that there was no forum at which the "certain point" of diminishing returns could be explored and defined, certainly none when accountability was moved to the state level. Given such a finding, it is difficult to see why the monitoring team was "hopeful" that the district's negotiations with teachers would lead "to improved II/UPS collaboration."

In heaping praise upon himself in his letter to Hart, perhaps Rojas hoped to move up to the state level to become part of Hart's "team." Whatever ambitions Rojas had, he seemed to have overstepped them five days before the PSAA was passed in the Assembly and six days before it was passed in the Senate. On March 17, 1999, the deadline for districts to report their fiscal condition to the state and the day before the Assembly was scheduled to vote on extra funding for SFUSD, Rojas announced his plan to cut \$17 million from the district's budget. The San Francisco Assembly representatives were furious with Rojas' "dramatic announcement" (*San Francisco Chronicle*, 5/18/99). Carole Migden (D-San Francisco) immediately added an amendment to the funding bill (AB36)<sup>24</sup> that would have authorized a complete audit of SFUSD finances. (The bill was ultimately vetoed by Governor Davis on July 7, 1999, but an audit was still authorized by the state superintendent of public schools, Delaine Eastin.) On April 22, the Dallas school board stunned San Francisco by announcing that Rojas was its first choice to replace a superintendent who had pleaded guilty to fraud and embezzlement. Two San Francisco school board members called for Rojas to resign immediately "on the ground that he violated his contract by interviewing for a job without telling the board" (*San Francisco Chronicle*, 4/23/99).<sup>25</sup>



## ***The Legacy of Rojas and Reconstitution***

Rojas' March 17 announcement unleashed a firestorm of criticism of past fiscal practices, which was curious since Rojas had a legitimate claim to expect the state to reimburse the district for the \$17 million it had spent from 1993 to 1997 on Consent Decree programs. The Court had ordered the state to reimburse San Francisco for 80 percent of the cost of its desegregation order since 1985 (Biegel, 2000; p. 178, fn. 236). Yet for two years leading up to Rojas' "dramatic announcement", there had "been a growing lack of confidence expressed by state and local legislators regarding the district's financial condition and fiscal practices" (FCMAT, 2000; p. 1). One example was reported by the *San Francisco Chronicle* on March 20:

San Francisco schools Superintendent Bill Rojas' management of his beleaguered district is coming under renewed scrutiny as officials question why he dipped into [the general fund] to buy a building that stands vacant five months after the purchase. Summer school and substitute teachers were two of the areas where Rojas announced \$17 million in cuts and funding shifts last week to cope with the district's financial crisis. That money comes from the schools' general fund, the same one Rojas tapped for \$7.8 million in the fall to buy the building at 33 Grant Ave . . . from Pacific Bell for "office/administrative space." No funding source was identified in the resolution [authorizing the superintendent to purchase the building], and several board members recall being told by Rojas' staff that the money was guaranteed from the state through its school facilities reimbursement program. . . . Reimbursements are made for school buildings only, and even the, the district must prove it has an overcrowding problem [although] rules are relaxed somewhat for magnet schools that draw a diverse student body from across a district. School board President Juanita Owens said the administrative purpose of the Grant Avenue building was abandoned months ago in favor of her proposal to open it as a business magnet school. The board has never voted on that plan, however (*San Francisco Chronicle*, 3/20/99).

The audit ordered by the state superintendent took place from July 1999 through April 2000 when Rojas was no longer there. The conclusions of the report indicate why Rojas might have been eager to seek new employment before completion of the audit. The auditors found that many of the problems leading to fiscal mismanagement dated back "five years or more," about the time Rojas fired a conservative budget manager and replaced him with one of his New York colleagues. The audit found that district offices were providing "unreliable and untimely financial information" because of a "substantial lack of internal control consciousness in the SFUSD." Incompetent and poorly supervised and trained staff systematically failed to perform "account reconciliations and budget monitoring." This indicated to the auditors that it was likely that "fraud and abuse" occurred as well as possible "violations of laws and regulations" (FCMAT; 2000, p. 11).

It is interesting to note that in addition to leaving the school district vulnerable to fiscal "fraud and abuse," the auditors believed that Rojas' district bureaucracy was not "receiving the level of service they need to support adequately the educational programs." District support, according to the theory of reconstitution, is crucial for the success of such an accountability system. The court monitoring team also noted in its July 2000 report that it was unclear how the support from Consent

Decree funds were being spent.

Once the Department of Integration approves a school's budget, the Department appears to have no further monitoring function to ensure that the school in fact spends its funds as it promised or to ensure that the programs funded lead to improvements in the academic performance of the school or toward other Consent Decree goals (e.g., improved attendance) (Biegel, 2000; p. 57).

The monitoring team, in looking at the district's 1999–2000 Consent Decree budget records, was curious why “almost \$400,000 was budgeted for CSIP if in fact the CSIP program was discontinued in 1997” (Biegel, 2000; p. 55, fn 91).

The *San Francisco Chronicle*'s postmortem on Rojas claimed, in the headline, that his *Record Can't Be Denied: Scores, graduation rates rose during his tenure as San Francisco schools chief* (6/21/99).

Even a critic such as school board member Dan Kelly still glows when talking about the educational state of the district today. . . . [He] praised the district's focus on low achievers and non-English speakers, its interest in expanding the variety of schools and programs, and its overall emphasis on student progress. . . . “If we say that what really counts in a school district is student achievement, then Bill Rojas gets an ‘A,’” state Superintendent Delaine Eastin said, noting that San Francisco's numbers have gone up faster and higher than in such cities as Los Angeles, New York, and Chicago.

While the reporter admitted that the cornerstone of Rojas' reform package — reconstitution — showed “little evidence that it helped” and “did not always help raise scores,” nevertheless “the chaotic environment at some schools eased.” Peter Cohn “praised Rojas as being more committed to minority student achievement than any previous superintendent.” Pedro Noguera, professor of education at Berkeley, concluded that Rojas improved the district because he “challenge[d] the orthodoxy and tr[ie]d new things.” The reporter concluded that the fiscal problems of the district were the responsibility of the school board who “did nothing, for example, when Rojas stopped giving members budget previews that might have provided early warning of fiscal problems” and “did not forbid him” from using the same evasive tactics again and again (*San Francisco Chronicle*, 6/21/99).

So, it seems, the focus on rising test scores concealed a multitude of sins. Rojas' promises to eliminate the “achievement gap,” to hold teachers accountable, and to provide high standards for all led to the hijacking of desegregation funds and the elimination of even the appearance of democratic decision-making. The school board “did nothing” to hold Rojas accountable because the Consent Decree gave Rojas the right to ignore school board members' request for information. The sloppy, if not illegal, manipulation of the budget and the lack of structural support for the “new things” that Rojas “tried” were hidden from public view under the umbrella of the Consent Decree, the size of the umbrella having been expanded districtwide by the experts' collaboration with the BRT agenda.

Ironically, in the name of accountability, systemic reform relieved Rojas from being held accountable by the people of San Francisco. The emphasis on test scores as the “bottom line” made other indicators of institutional health disappear, for a while, from public view.

The only group, apparently, that was consistently upset with Rojas were the teachers. But to criticize Rojas meant one was criticizing the Consent Decree and was thereby against “equity and excellence.” This necessarily pitted the mostly white teachers against the NAACP and its allies. Nevertheless, many teachers persisted in asserting that Rojas’ public descriptions of what was going on in the schools had little to do with the reality they were experiencing. One teacher complained

“we don’t have nearly adequate counseling staff in the district. Teachers are so overworked that we barely have time to say ‘hi’ to the kids. We don’t even have a phone number that we can count on to be answered in case of emergency. . . .” Other [teachers] complained that Rojas eliminated a number of vocational electives such as wood shop, home economics, and auto mechanics classes that had kept many students coming to school. Cohn of the NAACP and many others applauded when Rojas replaced those high school courses with strengthened academic requirements. Some teachers, however, said the change actually led to dumbed-down classes because they were pressured to dole out high grades to underprepared students. Rojas put that pressure in writing in 1993, requiring that middle and high schools maintain at least a “C” average for all racial and ethnic groups. He also said high schools should either maintain a “B” average for all college preparatory courses or improve grades in classes required for University of California admission. The result was documented grade inflation at Balboa High and anecdotal reports at other schools. Under Rojas’ direction, the district also began highlighting the scores of fewer students each year in its reports, eventually putting into its primary report only the scores of the English-speaking students who had been in the district at least two years. The result was an appearance of scores rising faster than may have been true. It was all part of the superintendent’s push for higher graduation rates and better numbers overall. Often that approach meant teachers and principals were not asked what they wanted to do, but were told (*San Francisco Chronicle*, 6/21/99).

Rojas’ response to such charges was to repeat that the

“schools are fundamentally sound, with a solid core of teachers.” Early retirements and an explosion of new hires, he said, have left a fairly young team of teachers and administrators “with a good shelf life ahead of them. . . . Maybe my successor will be more loved,” Rojas said. “But I feel very good about the success here. As far as urban districts go, San Francisco is probably one of the best in the nation. . . .” (*San Francisco Chronicle*, 6/21/99).

The lack of “internal controls” that the state’s audit discovered when looking at the district’s budget strongly suggests a lack of “internal controls” regarding other numbers coming out of the district’s offices, especially test scores. Rojas’ dictatorial decision-making process and selective disclosure of district data prevented the kind of access to district records that would have allowed reporters, the court monitoring team, and school board members to discover to what degree, if any, there was a cause/effect relationship between district policy and student educational experience, never mind discover how much of the financial mismanagement was outright fraud, kickbacks or

embezzlement. A *San Francisco Chronicle* editorial explained that Rojas' "refusal to reach out to parents and teachers" had been acceptable because his "strategies paid off in better academic achievement" (4/24/96). This is the BRT formula. While it is impossible to determine to what degree the numbers indicating "better academic achievement" were accurate, the educational establishment and even those who create the standardized tests all agree that even if test scores are not manipulated, no important decision should ever be made on the basis of one test score alone. Yet Rojas, Peter Cohn, members of the San Francisco Chamber of Commerce, the California Business Roundtable, and the editorial board of the *San Francisco Chronicle* dismissed the pleadings of community leaders, parents, teachers, and students that higher test scores not be used as the sole indication of educational excellence in the schools.

Rojas pioneered the state's high-stakes accountability system — the 1999 Public School Accountability Act — in San Francisco by using CTBS test scores to determine whether a school was either high- or low-performing. Low-performing schools were theoretically given support to help raise their scores. When the scores did not go up within one or two years, the schools were reconstituted. Besides being a narrow and debatable goal of education, basing educational "equity and excellence" on a standardized test score is educational malpractice. Rojas defended the use of test scores to make "high-stakes" decisions as "data-driven" reform that would lead to the elimination of the "achievement gap," thereby making desegregation debates moot. According to Rojas' theory of systemic reform, teachers were to be trained to use the test scores to evaluate which instructional programs were working and which were not and act on that evaluation. If they didn't (or even if they did to no effect) they would be "vacated." Yet at the same time when the district distributed the CTBS scores to the principals of each school (who theoretically share these scores with the teachers in the school), they cautioned that

first, achievement test scores [such as the CTBS] are only estimates of students' performance levels. They are not absolute or permanent indicators of ability, performance, or academic achievement. Test scores indicate how an individual or group of students performed on specific skills at one point in time, under specific circumstances. Secondly, test scores show only how students performed, but not why they performed as they did. Lastly, knowledge of basic skills is not the only factor influencing student achievement. Other factors may include curriculum factors, test factors, and student background factors (*Academic Achievement*, SFUSD, Volume I, Appendix B (printed August, 1998); p. A-4.).

The CBR is currently lobbying state legislators to streamline teacher credential programs and reorient the courses in order to focus on teaching teachers how to use test scores to develop their instructional methodology. Yet using test scores in this manner is as useful as reading tea leaves, perhaps less so. There are so many variables that affect test score results that the test score itself must be confirmed by other means. This means that an ecological or qualitative study must also be done. This, however, defeats the ostensible purpose of using standardized tests in the first place — to make assessment cost-effective.<sup>26</sup> That supporters of the BRT agenda are not concerned with this issue of

test validity suggests that they are either willfully ignorant (and stubbornly so) or wish to use tests to undermine community influence in curricula and instruction.

The proliferation of test preparation materials seems to be one response to criticisms that no amount of training can lead teachers to use test scores to adjust their teaching practices. Rojas' successor, Arlene Ackerman, seems to be desperately relying on such a course. She is putting into place a policy in which those who score below 40 percent on the SAT-9 (approximately 1/3 of the SFUSD student population) must go to summer school and Saturday classes in order to be drilled from test preparation materials so they can have a better chance of passing the state's High School Exit Exam. The next step is to begin to force teachers to "teach at high enough standards." The district "will get teachers to know what the standards are" by creating end-of-course exams. Instead of the teacher creating the final exam for his or her course, district administrators will write the exams (Elois Brooks, Secondary Task Force meeting, 4/11/02). Ackerman's 5-year plan is called *Excellence for All*. It is closely linked to the state's Public School Accountability Act. The school board, however, passed a resolution in January 2002 requiring the superintendent to accompany the announcement of all major policy initiatives with a "racial/ethnic impact study." The resolution came out of a school board meeting on October 30, 2001, at which dozens of teachers, students, and community leaders testified to the increasing segregation and alienation in the district's schools. Shortly after the passage of the board's resolution, Ackerman announced the closing of one the poorest-performing comprehensive high schools. When a board member asked her for the impact study, she replied that she had not done one.

In Chapter 5, we saw that in five cities, the BRT agenda was not fully adopted until the debate over desegregation had been abandoned. I argued that such a pattern was not a coincidence. The same pattern prevailed in San Francisco but with a slight twist. The hostility of the San Francisco NAACP lawyers to the district's teachers allowed Rojas to use the rhetoric of the BRT agenda to eliminate the debate over the complex benefits of diversity. Rojas and his supporters succeeded in replacing discussion and debate over the multiple and legitimate goals of education (and an examination of the budget) with a false dichotomy: one is either for "high standards for all" or for allowing poor and minority students to continue to fail. There was no question, until the last two years of his term as superintendent, about the authenticity, validity, or reliability of the test scores he was using to justify the elimination of community participation in policy making. Rojas was congratulated for raising expectations but never managed to close the achievement gap (Biegel, 2000; p. 51). Within-school segregation continued and began to get worse after 1998 (Biegel, 2000; p. 73). From 1996 to 2000, there had been "no progress" in disproportionate suspensions and dropouts of African American students and the problem is "getting worse" (p. 110). African American students continue to have the lowest mean GPA in all 12 of the district high schools (p. 130) and the lowest percentage attending 96 to 100 percent of their classes at every level (p. 133).

In spite of evidence suggesting the ineffectiveness of Rojas' policies, his claim that CTBS test scores were "going up" — announced periodically in press conferences from the board rooms of

Pacific Bell and the San Francisco Chamber of Commerce — allowed him to advance his own career goals. He gained a PhD, a national reputation, access to Gary Hart’s “team,” election to the presidency of the Council on Great City Schools, and a 41 percent increase in salary when he moved to Dallas. Rojas pursued the Business Roundtable’s agenda of “high standards for all” and was rewarded for it. That such policies left havoc in their wake did not seem to bother the CEOs of the California Business Roundtable since the ultimate effect (and perhaps the real purpose) was to eliminate community-based reform. Real reform was sacrificed for rhetorical reform.

In the next and final chapter, I examine the trials and tribulations of a single high school in San Francisco. We will see how the imposition of divisive, top-down reform interfered with and ultimately destroyed policies and practices that were designed to solve the problems Rojas chose to ignore.

<sup>1</sup> At the time, Orfield was a professor at the University of Chicago. Currently he heads the Harvard Civil Rights Project.

<sup>2</sup> Ironically, the Chinese Freedom Schools chose the same name used by schools created to integrate Mississippi society 6 years before. In 1964, the Congress of Federated Organizations sponsored Freedom Schools in Mississippi. These “freedom” schools were created as part of the process to force integration of all public institutions in the state through the creation of an alternative political party, the Mississippi Freedom Democratic Party.

<sup>3</sup> See Chapter 5 for the role magnet schools have played in the desegregation battles.

<sup>4</sup> One might note that in Chapter 6, I argued that it was in 1978 that the state began to be the major source of funding for local school districts. It was, then, only appropriate that the NAACP begin to consider the role of the state as a potential funding source for any desegregation plan that the NAACP would be able to win from its court battle.

<sup>5</sup> Orrick believed that the NAACP had relied primarily on a 1943 study, *The Negro War Worker in San Francisco*. The study was administered by the YWCA and carried out in connection with the Race Relations Program of the American Missionary Association. Judge Orrick said it was questionable because it “does not adequately disclose the source of the racial statistics included therein, or how or when they were collected; it does not describe the methodology used to analyze these statistics; it contains no background information concerning the qualifications of its authors; it does not purport to be an official District census” and was not used by the NAACP in its previous lawsuits against the District.

<sup>6</sup> “Alternative schools” have had and continue to have open and often more competitive enrollment procedures than regular neighborhood schools. The most prestigious alternative high school in San Francisco is the nationally known Lowell High School, located in the southwest quadrant of the city. Currently, the four most desired high schools (out of 16) are located in the western part of the city.

<sup>7</sup> Judge Orrick appointed as co-chairs of the settlement team “two of the best educators in the country,” Harold Howe (chair of the board of Institute for Educational Leadership) and Gary Orfield (professor of political science, public policy, and education at the University of Chicago). The NAACP lawyers appointed Gordon Foster (professor of education at the University of Miami) and Robert Green (Dean of Urban Affairs at Michigan State University). The district appointed Barbara Cohen (Administrative Assistant to the Superintendent of SFUSD and previously employed by Far West Laboratories) and Fred Leonard (Associate Superintendent for Instruc-

tional Support Services of SFUSD). The state appointed Ples Griffin (Chief of Office of Intergroup Relations for the California Department of Education and formerly a special consultant to the Rand Corporation) and Thomas Griffin (lecturer in a graduate student law course at the University of California at Berkeley).

- <sup>8</sup> Judge Orrick identified practices that had created and maintained segregation in San Francisco in his 1983 order: “The SFUSD shall continue to avoid choosing sites for such special programs as magnet or alternative schools or curricula . . . facility utilization policies or practices, including school openings, closings, conversions, renovations, grade structure changes, boundary changes, or feeder pattern changes . . . transportation policies that disproportionately burden any racial/ethnic group” (Orrick, 1983, 13e and 13f). Almost in anticipation of Orrick’s order that the district not use alternative schools to “disproportionately burden any racial/ethnic group,” the district established four new alternative schools, three of them high schools, between September 1981 and September 1982 (Wallenberg High School, School of the Arts, International Studies Academy, and Lilienthal Elementary) (*San Francisco Chronicle*, 4/17/82, 6/17/82, 6/18/82, 6/29/82).
- <sup>9</sup> When a San Francisco teacher was told by a *Chronicle* reporter that the new contract with the district allowed for teachers to have a “role in decision making,” the teacher was quoted as saying: “Role in decision making? It’s not customary for the district to give us any role in decision making. I haven’t a clue what that means” (*San Francisco Chronicle*, 9/5/84, p. 4).
- <sup>10</sup> From the April 1995 draft update of the district’s SFUSD Special Plan for Bayview–Hunters Point Schools, 3–14 (Biegel, 1997; fn 116). The same wording is repeated in Rojas’ 1996 dissertation (p. 59). A later version of the eighth Tenet reflects the influence that the San Francisco teachers’ union was finally able to effect on the process of reconstitution: “Teachers, administrators, and staff are partners with students in the learning process. If students fail, *all partners* should accept full responsibility for this failure and take action to ensure success” (Rojas, 1999; p. 7) [my emphasis].
- <sup>11</sup> The concerns of MALDEF and other Latino advocacy groups were to some degree incorporated into the parties’ Second Joint Report. The report made specific recommendations to the district regarding bilingual and LEP instruction. Yet these recommendations were never implemented. For example, the time LEP students spent in segregated classes was not “minimized.” Those in bilingual programs who developed English proficiency were rarely placed out even after official redesignation (Biegel, 2000; p. 40). When the district was out of compliance, the NAACP had the legal right to file suit. MALDEF and others did not.
- <sup>12</sup> The language parallels are pervasive. Another example comes from comparing the first sentence of Rojas’ *Benefits of the SFUSD Consent Decree* (“San Francisco’s children are able to attend ‘World Class Schools in a World Class City’” — p. 1) with the San Francisco Chamber of Commerce Education Committee’s explanation as to why they exist (“A world class city needs world class schools” — web page viewed 4/15/02). That Rojas actually puts quotation marks around the common phrase is perhaps an indication that he is attributing credit to his corporate supporters.
- <sup>13</sup> Using test scores to define “academic performance” makes the relationship between performance and desegregation problematic. The strong correlation between test scores and socio-economic background combined with the strong correlation between SES and race make test scores and desegregation as compatible as oil and water. For a powerful critique of the commercial standardized tests, see Chapters 3 and 4 in W. J. Popham, *The Truth about Testing: An Educator’s Call to Action*, Alexandria, Va.: Association for Supervision and Curriculum Development, 2001.
- <sup>14</sup> Rojas argued that the district had made significant gains towards elimination of “racial identifiability” by arguing that in 1978 “ten district schools had African American enrollment exceeding 90 percent, and an additional fifteen schools exceeded 50 percent African American enrollment. Because of the Consent Decree implementation, such segregation no longer exists in the SFUSD” (1999; p. 22). This brief statement is in marked contrast to the previous six pages of detailed test scores indicating where Rojas’ priorities were and raising questions as to

what his definition of “identifiability” was.

- <sup>15</sup> In the next and final chapter, I demonstrate that the teachers and administrators of Mission High School, under threat of reconstitution, did indeed take a great “interest” in “student achievement data.” But I also demonstrate that their “interest” in “district generated data” was not useful in helping them serve the needs and concerns of the students or the community.
- <sup>16</sup> One of the stipulations of the Consent Decree, from its inception in 1983 and through its many revisions, was that the Court appoint an outside monitor to evaluate, on a yearly basis, the degree to which the SFUSD had complied with the Decree’s stipulations. Stuart Biegel, a law professor at UCLA, was appointed in 1996 and has been in charge of a monitoring team ever since. In reading the monitoring team’s reports, I was struck by the extent the “outside” evaluators are dependent upon data received by SFUSD in order to evaluate SFUSD’s compliance for the court. District officials, rather than students, teachers, parents or the NAACP provide the bulk of the information in these reports.
- <sup>17</sup> After deciding to leave San Francisco, Rojas responded to such criticism by insisting that the “schools are fundamentally sound, with a solid core of teachers.” Early retirements and an explosion of new hires, he said, have left a fairly young team of teachers and administrators “with a good shelf life ahead of them. . . .” (*San Francisco Chronicle*, 6/21/99).
- <sup>18</sup> See also the introduction to the charts in Chapter 5, where I argue that proportionality should be the criterion to determine integration.
- <sup>19</sup> Even though a California State Department Bulletin in 1973 referred to continuation schools as “alternative” schools whose constituency were the “bright but bored,” Kelly (1993) argued that the subordinate position and stigma attached to continuation schools allowed them to be used by public school staff as a threat to induce conformity among public school students (p. 68). The continuation school’s subordinate position is enforced by the system’s demand that continuation schools be used as a “safety valve” for comprehensive schools. “As long as the academic curriculum remains central and the comparative and selective functions of schools remain unchallenged, alternative schools are liable to get pushed to the margins and devalued” (p. 218). From the Wells’ Student Accountability Report Card: “Ida B. Wells High School is an alternative school for San Francisco students who are seeking smaller classes and a family-like school, hands-on learning, and an opportunity to earn credits through course work, work experience, community service, and independent study. Students who transfer to Ida B. Wells must be willing to improve their attendance, challenge themselves to learn, and collaborate with other students and staff to create an exciting learning environment.”
- <sup>20</sup> SFUSD profiles (<http://orb.sfusd.k12.ca.us/profile/prfl-697.htm>) viewed on 5/6/02
- <sup>21</sup> One parent after visiting elementary schools for her child wrote an op-ed piece in the *San Francisco Chronicle* observing: “Nearly all the top-rated schools have playgrounds, some with two or three different structures. Sunnyside has a black, asphalt play area. Much of the instruction at the better schools centers around hands-on projects that engage the child in the subject. At Sunnyside, students listen as the teacher lectures. . . . Why doesn’t my neighborhood school have the wide-eyed, eager expressions of learning going on, let alone rooms without paint chipping off the walls and clean floors? How did there get to be such a disparity in the San Francisco public schools?” (Susan Levi-Sanchez, 5/23/00; A25).
- <sup>22</sup> Segregated housing and schools allows for the perpetuation of myths, myths confronted by one parent who overcame her prejudices when looking for a school for her daughter because she has valued the goals of integration: “I looked at Paul Revere Elementary School in San Francisco when Hedda was a 1-year-old. I thought I would find what I believed about urban public schools — that it would be chaotic, dangerous, and frightening. I found the opposite. . . . I was led to believe that there were just a few good public schools. And if I didn’t get Hedda in one of them, I was better off sending her to private school. . . . I might not always relate easily to other Paul Revere parents, who may come from different backgrounds. . . . But she is expanding her universe in a way that can never be reversed. If she continues down this path, she won’t feel uncomfortable with the parents at her child’s school — wherever it is, and whoever they may be” (Deena Zacharin, *San Francisco Chronicle*, 1/16/01; A17)



- <sup>23</sup> Many Lowell students had a particular 4-year university in mind: “Underlying their [opponents of affirmative action] arguments is the idea that everyone should be judged on merit. You study hard, get good grades, you get into Lowell High School and Cal [University of California, Berkeley]” (William Wong, *San Francisco Chronicle*, 5/9/96).
- <sup>24</sup> The bill “set aside \$8.3 million to reimburse 14 districts for desegregation expenditures. San Francisco’s share would be \$12.7 million . . . perceived by some as a pork barrel bill for San Francisco” (*San Francisco Chronicle*, 3/18/99; A11)
- <sup>25</sup> It would not be the first time that Rojas took a job while under a cloud. When hired by the San Francisco school board in 1992, the school was sued for allegedly violating the Brown Act. This act was passed to stop back-room dealing. One of the concerns that the public had but did not get a chance to explore during the hiring process was Rojas’ DUI record, which may have indicated some issues around alcohol abuse.
- <sup>26</sup> The misuse of testing, that is, the use of testing for high-stakes accountability and systemic reform, has led James Popham (2001), a long-time developer and defender of such tests to express his frustration with their current usage: Current “policymakers’ actions reflect their ignorance of the reality of educational testing. Even worse, they don’t know what they don’t know” (p. 35). Popham argues that what policymakers seem to only value in a test is its ability to reliably result in a “substantial score spread, enough to distinguish between 83rd and 84th percentile.” The reason the strongest correlation is between test scores and socioeconomic status is because SES is “a nicely spread out variable that isn’t easily altered” (p. 53). This allows the test to function as a sorting device for many years, thereby saving districts and states the cost of having to purchase a new test once teachers learn how to teach to it.