BROWN: WHY WE MUST REMEMBER

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I. INTRODUCTION

Professor Williams, Dean Kearney, and members of the extended Marquette family: Thank you for inviting me to participate in your observance of the fiftieth anniversary of Brown v. Board of Education.¹ I am delighted to join with you in your important effort to determine how Wisconsin will attend to its unfinished Brown business. In Brown, the Supreme Court held that “in the field of public education the doctrine of ‘separate but equal’ has no place. Separate educational facilities are inherently unequal.”² Language from that case not a part of the Court’s holding is also crucial to today’s conversations. In writing for the Court, Chief Justice Earl Warren noted education’s paramount importance saying, “Education . . . is the . . . foundation of good citizenship. . . . In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education.”³

That statement rang true then as color television made its debut.⁴ It resonates as compellingly today, fifty years later, as almost beyond imagination, the visual image in color constitutes an integral part of the everyday sensory experience of cruising the information highway.⁵

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2. Id. at 495.
3. Id. at 493.
5. The “information superhighway” is the worldwide network of computers that facilitates research and communication via electronic mail, telephonic exchanges and
Indeed, the importance of an education that is adequate by all measures is more critical than ever as a matter of not only personal, but also national, concern. It is no overstatement to declare that an educated citizenry is the glue that holds this democracy together.

The overt trappings of racial segregation in public schools have disappeared; these schools are no longer racially segregated as a matter of law. The debate over Brown's import, however, rages on. The present reality is that after a period of progress towards desegregation, the South's schools are become increasingly resegregated. From 1964 to 1988, the percentage of black students attending desegregated schools in the South rose to 43.5% from approximately 2%. This percentage declined thirteen points during the 1990s. Further, resegregation is not confined to the South. It is a national trend, the result of growing residential separation by race and income levels, a heavy reliance on neighborhood schools, lower immigration and birth rates for whites, and courts and policy-makers who oppose race-conscious decisions. Finally, even in schools that remain facially diverse, practices that undermine equality in educational opportunity persist. General tracking, a practice that theoretically allows a match between student ability and level of instruction, still all too often separates children by color. That same observation holds true for special programs including programs for the gifted, for those with learning challenges, and for those for whom English is a second language. Such practices, while extant fifty years ago and in spite of this pernicious effect, were not unique to de jure segregation. For that reason, these practices were not addressed in that litigation. They remain unaddressed in any definitive manner.

Concern about the culture in which children learn is deeply important because that culture shapes their worldview. The educational

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7. Id. at 14-17 (extensively reporting and analyzing data reflecting this reality).

8. Id. at 16-18.


10. Id. at 15-17 (providing further comment on these points).
environment is an important part of this experience. Research across a range of disciplines establishes this irrefutably and even we in the legal academy have recognized this. A 1980 American Bar Association publication, Law Schools and Professional Education, contains this comment: "[W]e must remember that socialization during infancy, childhood and adolescence is likely to shape the orientations and values of students prior to law school, and thereby to create certain perceptions through which the law school and the legal profession may be viewed." This is no less true even for those who, for reasons not readily apparent to us, choose not to become lawyers!

Over the last several hours, you have engaged in important conversations. You have celebrated Brown, for that case has unquestionably provided unassailable moral authority for sweeping positive changes of stunning magnitude. At the same time, as you must, you have acknowledged that the benefits of these changes have not been uniformly enjoyed. Indeed, some of the subsequent change has been perverse, exacting the greatest costs from those poised to contribute to the fulfillment of Brown's promise. Some of those who dared in 1954 to dream, who expected the rapid realization of the just society that seemed inextricably a part of the Brown vision, have seen those dreams dashed. As for the children who were at last to be relieved of the stigma of enforced separation on account of race, with its attendant education deprivation, in the worst case it is as though the dream had not been dreamed at all. We now wrestle with the task of bringing this all together to ask how, even whether, Brown's powerful moral message, with its history to date of unanticipated successes and dispiriting shortcomings, informs the continuing effort to define and provide a public education that is constitutionally sound in every dimension.

Bringing a conference like this one to a close is an awesome responsibility. It falls to me to affirm that you have (1) asked the right

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11. THE NEW DICTIONARY OF CULTURAL LITERACY (E.D. Hirsch, Jr. et al. eds., 3d ed. 2002) includes the following comment on socialization:

Socialization is essential for the development of individuals who can participate and function within their societies, as well as for ensuring that a society's cultural features will be carried on through new generations. Socialization is most strongly enforced by family, school and peer groups and continues throughout an individual's lifetime.

Id. (emphasis added).

12. ABA SPEC. COMM. FOR A STUDY OF LEG. EDUC., LAW SCH. & PROF'L EDUC. 21 (1980).
questions and that (2) there must be answers. Let me say at the outset that your mission is of continuing critical importance. My response is powerfully informed by personal experience and by what my colleague Richard Bonnie and I have learned of the experiences of others of our generation.

II. A PERSONAL STORY

I recall very clearly May 17, 1954. I was nine years old and a fourth grader in the Berkeley County Training School in Moncks Corner, South Carolina. Training School served all of the Negro school children of that county. My father was the principal of that school.

My classmates and I were enjoying the sunshine during recess when my father emerged from his office. He stood on the little hill that was just outside of his door, ringing a handbell. He regularly used the bell to signal the beginning of the school day and, to our daily dismay, the end of recess. As the bell rang, we started towards our classrooms but then realized that he was signaling for us to come to him. We did. Dad announced with great excitement that the Supreme Court of the United States had just held that segregated schools were unconstitutional. There were no longer to be separate schools for white and colored children. The case was, of course, Brown v. Board of Education. That decision struck down de jure segregation in the twenty-one states in which it was then the law,13 including, of course, South Carolina. We were giddy with excitement. As children, we did not understand all of the possible ramifications of the decision—ramifications that ultimately included the firing of beloved teachers, the closing of facilities, and the fragmentation of supportive communities. At that moment in time, we simply sensed and celebrated the righting of a great wrong.14

I shared that memory with my colleague and friend, Richard Bonnie, who is white and who spent his formative years in Norfolk, Virginia. He deemed his Brown experience no less transformative. Believing that others of our generation also have stories to share, we conceived the project in which we are presently engaged. Using legal academicians presently teaching in the nation’s law schools with birth years between

13. Public school segregation in the District of Columbia was declared unconstitutional on that same day in the companion case, Bolling v. Sharpe, 347 U.S. 497 (1954).
14. This personal reflection is recalled in further detail in Mildred Wigfall Robinson, Voices of the Brown Generation: Description of a Project, 6 J. APP. PRAC. & PROCESS 39 (2004) [hereinafter Description of a Project].
1937 and 1954 as our focus group, we administered a survey to learn what others of our generation could recall. We also invited the submission of essays recounting experiences from the first years after the Brown decision. We plan to publish the results of this project in a book to be entitled, Voices of the Brown Generation: Memories and Reflections of Law Professors.15

Of importance here, what Professor Bonnie and I suspected was borne out by the survey results. Others of our generation also remember when the case was decided and recall comments, conversations, and events following in its wake.16 Because of widespread resistance to implementation of the 1954 Brown decision, I and most of my peers remained in segregated schools.17 Nonetheless, the decision had an undeniable impact on our lives. Some of our responders reported reactions to initial comments by family, friends, and teachers on the decision.18 Others described the effect of events occasioned by efforts to comply, however minimally, with the Court’s decree.19 Finally, several described reactions to Brown’s fundamental message even in the absence of de jure segregation and racial issues starkly cast in black and white.20

Our responders spoke also of their own personal reactions as children. The range of emotions recalled ran the gamut but generally indicated openness to change.21 Importantly, a few of our responders actually experienced relatively extensive desegregation. Without exception, they wrote of the important life lesson—the immeasurable value of learning of and from each other—gained thereby.22 In the same vein, our essayists wrote of resulting fundamental and life-altering changes in the ways in which they view their world both because of and in spite of having had a meaningful personal experience with desegregation.23 This last point is well captured by Professor John Boger, writing in 2000:

15. A detailed description of the project appears in Description of a Project. Id. Professor Bonnie’s essay is a part of the collection of essays published in the book. Id.
16. See id. at 46-54.
17. See id. at 56 (citing to sources reporting that in the first decade after the Brown decision, fewer than one thousand school districts in the South desegregated their schools, and less than 3% of black children in a subset of those states attended desegregated schools).
18. Id. at 46-48, especially comments at nn.11, 12.
19. Id. at 49-53, especially comments at nn.15, 16, 20-26.
20. Id. at 55-56, especially comments at nn.30-36.
21. Id. at 48-49, especially comments at n.13.
22. Id. at 52-53, especially comments at n.24 and text accompanying nn. 25-26.
23. Id. at 63-64, especially comments at nn.74-76 and accompanying text.
[I grew up] when each school child could, and did, identify “white schools” and “black schools” simply by reference to the predominant race of the children attending them. . . . It worked a terrible evil. Although I cannot speak for my African-American neighbors, since segregation foreclosed my opportunity ever to know them, it was a psychologically damaging and educationally destructive experience for my white friends and myself and, I venture, for millions of other children. It has taken literally decades for my generation to begin to shed the unconscious, but pernicious, grip of the segregated environments in which we were brought up, with all of the fears, suspicions, and misunderstandings that they created.24

Brown did not address segregation’s possible harm to white children. As I have noted on other occasions, however, it comes as no surprise “that a system denying personhood to African Americans . . . scarred white Americans who were also its victims.”25

The collective experiences of the Brown generation add to the ongoing and increasing importance of education per se—the absolute necessity of formulating an effective societal response to public school resegregation with its host of related issues. This latter concern, I submit, must be deemed an inextricable part of a publicly provided education that is constitutionally adequate in all respects.

III. THE MILWAUKEE EXPERIENCE—THE AMOS GENERATION

Father Matthew Gottschalk of the House of Peace (Milwaukee) is quoted as having said that in Milwaukee in 1954, “the African-American community was relatively small, fewer than 30,000. Housing was restricted and educational opportunities limited.”26

I now know that Wisconsin has long prided itself on its racially

25. Description of a Project, supra note 14; Bearing the Costs of Realizing Equality, supra note 9, at 27.
“progressive” reputation,\textsuperscript{27} is characterized as having a generally progressive system of state and local taxes,\textsuperscript{28} and that its schoolchildren consistently place in or near the top quintile of academic achievement nationally.\textsuperscript{29} I have also learned that this is a quite homogeneous state; approximately ninety percent of Wisconsin domiciles are non-Hispanic white.\textsuperscript{30} Minority Wisconsinites live predominantly in your major cities, including Milwaukee.\textsuperscript{31}

Interaction between African American and white Wisconsinites has been, I learned, strained throughout the history of the last 150 years. In spite of a progressive reputation, racial discrimination was common.\textsuperscript{32} In 1954 and the decades following, a well balanced state and local tax system, and high-achieving schools generally provided no advantage to underachieving minority students who were trapped in decaying, overcrowded and under-funded urban neighborhood schools.\textsuperscript{33} This educational inequality led finally to the 1976 case, \textit{Amos v. Board of School Directors},\textsuperscript{34} in which Judge John W. Reynolds ordered

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28. See Kendra A. Hovey & Harold A. Hovey, \textit{Congressional Quarterly’s State Fact Finder: Rankings Across America} 170 tbl.F-23 (2004). According to that source, Wisconsin ranked “12” on progressivity of major state and local taxes in 2002 with “1” being most progressive and “50” being least progressive. \textit{Id.}


31. \textit{Id.} at 38 tbl.32 (reporting that in 2000, 222,900 (almost three-fourths of all blacks or African Americans domiciled in the state) lived in Milwaukee).

32. See Ranney, \textit{supra} note 27 (“The pattern of weak racial liberalism which Wisconsin established between 1846 and 1866 continued for the next century. Wisconsin never countenanced de jure discrimination, but de facto segregation and discrimination were common.”).

33. \textit{Id.} (noting that entrenched housing discrimination and commonly used restrictive covenants “played an important part in creating the city’s black ‘Inner core.’” The article further notes that racial covenants were legislatively prohibited in 1951 but that new law had little effect on housing segregation.).

34. Amos v. Bd. of Sch. Dirs., 408 F. Supp. 765 (E.D. Wis. 1976); Ranney, \textit{supra} note 27 (noting that Judge Reynolds in a lengthy opinion “painted a picture of a school system in crisis” and “noted that Inner Core schools did not receive their fair share of new facilities and equipment and that black students lagged badly behind white students in virtually every measure of student achievement.” Those schools were segregated de facto because of the
desegregation of the Milwaukee Public Schools. In short, I learned that life here in Milwaukee to that point, though not the result of de jure segregation, was in many respects akin to the world that we of the Brown generation knew.

Several of the schools in the city’s inner core were converted to specialty education in order to attract a voluntarily mixed student body. Busing of black children from their neighborhoods into schools in the city’s outer rim, however, was the primary means of achieving that end. A voluntary exchange program between the city and surrounding suburban school districts was also proposed and funded—the “Chapter 220” program.

In reading a little about the experiences of children who were a part of that effort, I was struck by the powerful parallel between the comments of the Brown generation and those of Wisconsin’s Amos generation. Comments recalling the Amos moment include the following. A twenty-nine-year-old white male who was beginning the fourth grade in one of the magnet schools in 1976 stated:

We were too young to care; to know what really was going on. The busing issue, which is what currently is being often demeaned because of the ride and the safety and so on and so forth, didn’t bother us a bit. I think, as any fourth-grader, I made a lot of friends. Kids I liked and disliked, it didn’t matter what color they were, although there definitely was a difference between your friends on the east side and your friends from other parts of the city, not just blacks but whites. You had your in-school friends and your out-of-school friends. It was always a very integrated group of friends in school. Out of school, it basically stayed neighborhood friends.

A thirty-one-year-old black male who was beginning the fifth grade in 1976 stated: “From a fifth-grader’s standpoint, it worked. It was

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35. Ranney, supra note 27.
36. Id.
37. WIS. STAT. § 121.85 (2003-04); Ranney, supra note 27.
really fun, we got a bus ride every day. . . . I thought busing was pretty good because it gave me a chance to mix with people with different lifestyles." 39 A twenty-eight-year-old white female who attended high school during that twenty-year period stated:

I . . . had an experience with having my purse stolen. . . .
I could never prove it, but I knew darn well who took it.
I was very naive and I was too afraid to go and say, ‘I think that person took it,’ and I think that’s a fear that my parents put in me more than anything else—be afraid, you can’t trust them. . . . 40

These comments are a mixed assessment, but overall more positive than negative.

There is an interesting divide here; the more positive comments were made by interviewees who were younger when the desegregation effort started. A query into whether students got “along across racial lines in your experience” elicited this response: “I think in elementary school they did. In elementary school, it was a really good situation. When I went to Sholes [Middle School] it was totally different. . . . I remember it being scary. I remember a lot of fights at Sholes. I didn’t know the kids any more.” 41

I was very naive . . . I was afraid . . . I didn’t know the kids any more. To what extent did intra-school separation persist even as the buses rolled? Did the children interact as equals on a daily basis? A comment from that era gives food for thought:

I wish we had had more opportunities to socialize, to understand. . . . I don’t think we were ever led to learning about another person or another person’s culture, where they’re from. I don’t think we were ever given a chance, and that created a lot of tension, because then their actions are things you don’t understand and it kind of scares you. . . . 42

I learned that twenty years after the Amos decision, the effort to
desegregate the Milwaukee Public Schools had been crippled by white flight and black frustration and that an achievement gap between black and white kids continued to exist. Some progress had been made; the inner core magnet schools were, indeed, racially mixed and were working well. That was not enough, however, to make the effort a success. A news article reported that “Metropolitan Milwaukee [was in 1995] still . . . labeled one of the most racially segregated areas in the country.”

Was the Amos effort worth it? Here are a few assessments that speak to the effect of that experience. From the twenty-nine-year-old white male:

*I think a lot of my values and the way I view people come from that experience, and I think that I really see people as equal. . . . If you agree with the idea that it’s important for kids of different social standing, different backgrounds to come together so a little bit of each other can rub off, than I think that it was a success.*

From the thirty-one-year-old black male: “[W]hen you look at the current situation in the city and its schools, ‘you’ve got to say it’s a failure. . . . It was a good idea in principle. What failed is that our society doesn’t want to deal with race on a realistic level.’” And from the twenty-eight-year-old white female: “I can honestly say I would never want my children to go to Milwaukee Public Schools *just because of the problems I encountered*, and it’s not getting any better. . . .”

Again, a mixed assessment from this group of children, but one that nevertheless remains instructive. I submit that the collective memory of these children conveys the same powerful aspirational message as that from our contributors both black and white: If children were able to come together as equals to learn together in a supportive environment, they would quite naturally create a community.

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43. *Id.*
44. *Id.* (emphasis added).
45. *Id.* (emphasis added).
46. *Id.* (emphasis added). In the same vein, a school board member during that era deemed the desegregation effort “a tragedy in terms of what might have been.” *Id.*
IV. PRESENT CIRCUMSTANCES

At this point in time, desegregated schools within the city of Milwaukee are not an option. Almost one-half of the city's population is non-Hispanic white, and it is home to one of the 100 largest public school systems in the United States. The Milwaukee Public Schools ("MPS"), however, are overwhelmingly black. A recent news article reported the following:

MPS schools remain at least as segregated as they were in 1976—and by many definitions, far more segregated. In 1976, roughly 60% of MPS students were white and 34% black; today, about 17% are white, 18% Hispanic and 60% black. In 1975, 33 of the 163 MPS schools had more than 90% black enrollment, and today 70 of about 175 schools do.

In short, like too many of the schools in other big city school districts, Milwaukee Public Schools are quite emphatically racially segregated.

Further, the MPS system is plagued by the same depressed socio-economic conditions that bedevil so many of the nation's big city school districts. The Milwaukee Public Schools have an exceptionally high dropout rate, and a significant percentage of students qualify for free and reduced lunch. In 2001-2002, no less than 92.5% of students in 75% of Milwaukee Public Schools were designated Title I eligible. By contrast, nationally 55.4% of all schools were designated Title I eligible, and 51% of students in those schools so qualified. These statistics establish irrefutably that MPS has one of the largest concentrations of poor students in the 100 largest school districts in the United States.

47. See STATISTICAL ABSTRACT, supra note 30.
49. Sarah Carr, After 28 Years; As Program Rolls Forward, It's Slowly Losing Momentum, MILWAUKEE J. SENTINEL, Jan. 11, 2004, at 1A.
50. Brown at 50, supra note 6, at 33-34 (concluding that the nation's largest city school systems account for a shrinking share of the total enrollment and are, almost without exception, overwhelmingly nonwhite and increasingly segregated internally).
51. See 100 LARGEST, supra note 48, at 21 tbl.5.
52. Id.
53. Compare these data with the following: Philadelphia (98.9%), Aldine (TX) (98.5%),
Children struggling with the effects of impoverished personal circumstances face additional obstacles in the quest to be good students pursuing an adequate education. Schools that serve these children all too often lack the personal and financial resources needed to successfully counteract the effects of student poverty. Justice Ruth Bader Ginsburg spoke to this reality in her concurring opinion in Grutter v. Bollinger, saying that despite a strong public "desire for improved education systems[,]... it remains the current reality that many minority students encounter markedly inadequate and unequal educational opportunities."

The evidence linking student personal and educational poverty with sub-par academic performance is compelling. In Milwaukee Public Schools, the measurable gap in academic achievement between black and white students persists.

For the children trapped in these failing schools, who were at last to be relieved of the stigma of enforced separation on account of race, with its attendant education deprivation, in the worst case it is as though the dream had not been dreamed at all.

Finally, segregation and resegregation also deprive white children of an education that is constitutionally sound in every dimension. In striking down state-sanctioned segregation in education in Brown, the Supreme Court removed a barrier seen to have a negative impact on black children. Reliable data increasingly available now suggest that a truly integrated education is efficacious for white children as well as black children. Students from all racial groups who interact in schools having a diverse student population have a greater ability to live and work in a diverse and rapidly changing democratic society. Professor Boger spoke to this point in his 2000 article saying:

[R]easonable educators might well conclude that every child has a compelling interest in learning more about

Cleveland (94.4%), Atlanta (93.8%), Boston (92.5%), and Ysleta (TX) (94.9%) were the only districts in the top 100 to have this number of Title I eligible schools with 90 plus percent Title I eligible students. See id. at 21-23 tbl.5.

54. BROWN AT 50, supra note 6, at 21.
55. Id.
57. See Borsuk, supra note 38, at A1; see also Ranney, supra note 27 ("Studies in the late 1980s showed that the quality of education that most black students in MPS received and their levels of achievement continued to lag badly behind those of white students.").
58. BROWN AT 50, supra note 6, at 25-26.
59. Id.
children of other racial and ethnic backgrounds. From that exposure, children can see for themselves the role that racial background plays (or very often does not play) in prompting a child to respond to good literature, to think about civic issues, to work in groups, and to create new solutions for contemporary problems. Indeed, the pedagogical objective in assuring racially diverse classrooms seems founded not upon some chimerical stereotype about what African-American children think or how Latino children behave, but on precisely the opposite view—that all children share many more things in common than they do differences and that the best device for overcoming lingering racial suspicions or prejudices is exposure, not separation.\footnote{Boger, supra note 24, at 1766 (emphasis in original).}

Comments from the Brown generation as well as from children in your Amos generation echo this asserted truth. Segregation and resegregation, on the other hand, guarantee that yet another generation of schoolchildren will be denied the opportunity to have a common, shared educational experience.

As you have noted, by any measure, fulfilling Brown’s promise for the schoolchildren of Milwaukee—for the Milwaukee metropolitan area—remains unfinished business. Factors noted earlier that stall or reverse this effort nationally are all present here. Principal among these are economically pressured inner city schools that lack racial and economic diversity; intra-school separation in ostensibly integrated schools; and segregated housing patterns. Nevertheless, the effort to continue to respect and serve each child’s right to an equal education is not only fulfillment of the Brown mandate, it is also in this nation’s interest. The issue of race in this country is no longer one that presents itself simply in black and white terms. Today’s “Americans of color” include African Americans, Asian Americans, Latin or Hispanic Americans, Native Americans and “others.” Americans presently range across the spectrum of human complexion and human cultural experience. All of today’s children must be prepared to live and thrive in this emerging America.
V. LEARNING FROM THE PAST

Clearly, Americans have the ability to achieve stunning successes. The single technological advance cited earlier convincingly supports this assertion. Fifty years ago, the advent of color television seemed an unbelievable achievement. Television programming in color was limited in terms of both the number of providers and availability to the general public. Few believed that color television would become ubiquitous. Today, internet users enjoy limitless access to a dazzling individualized array of information and entertainment provided through the televised image. Color is an integral—seemingly natural—part of this very sophisticated service. In contrast, to an unacceptable extent, many of the same difficulties that limited or foreclosed opportunities for an adequate education in 1954 persist to the present. What must happen in order to realize comparable progress to discharge the continuing responsibility to provide adequate public education? We need look only to recent experience to answer this question.

(1) Let us remember that a child must be afforded the opportunity for an education—an adequate education—to be reasonably expected to succeed in life. I have suggested that in today’s world, an additional component of adequate education for all children is the opportunity to learn of and with others. An education that is complete in every dimension must be a diverse education.

To some extent, the effort to provide such an education continues here. You presently have in place two programs that, however coincidentally, may further desegregation of area schools: the “Chapter 220” Program (since 1976) and the Milwaukee Parental Choice Program (since 1990). Briefly, the Chapter 220 program allows minority students in Milwaukee to attend suburban schools and white students in suburban schools to attend schools in Milwaukee. The State reimburses the school districts for the costs incident to student attendance. Student transfers under this program have largely been one way (from MPS into suburban schools). The program is presently

61. Wis. Stat. § 121.85 (2003-04) (Chapter 220 Program); Wis. Stat. § 119.23 (2003-04) (Milwaukee Parental Choice Program); Carr. supra note 50, at 14A (observing that “[s]chool officials and policy-makers now tend to see Chapter 220 less as a broad social policy and more as a way to give families another educational choice”).
63. Id.
64. Id.
unable to accommodate all requested transfers and its future is unclear. Under the much more controversial parental choice program, lower-income parents are allowed to use public money to pay for education at private sectarian and nonsectarian schools. Each student enrolled under this program is eligible for a (downwardly adjustable) voucher worth roughly $6000. There are presently approximately 14,700 students enrolled in 108 nonsectarian and religious private schools. This program is perilously close to the legislatively imposed cap of 14,800 students. Finally, during the 2003-2004 school year, Milwaukee had thirty-four charter schools serving approximately 13,000 students.

These programs likely enhance the quality of education available to roughly one-third of Milwaukee’s 105,000 public school students. What of the remaining two-thirds of the student population? Dennis Conta, a former state lawmaker, succinctly noted that “[i]t is now impossible in our lifetime to achieve serious integration in the city.”

Discharging the continuing responsibility to provide an adequate education for the remaining children is not lessened by the present difficulty of doing so in an integrated setting. This reality dictates the necessary, one hopes interim, strategy. Public investment at levels that serve, rather than compromise, individual educational achievement is critical. Public schools that serve a student population that is predominantly poor whether urban or suburban must be supported at a level that promotes genuine student achievement. Meaningful reform should include attention to the demographics as well as the quality of teachers and administrators. Far too many schoolchildren are in classrooms with teachers who are unable, for a host of reasons, to dedicate themselves to the task of educating. Attention must be accorded to the environment in which children are to learn. In addition,

65. Id.
66. WIS. STAT. § 119.23(3)(a).
68. Id.
70. See Accurate Information, supra note 67.
71. See Carr, supra note 49, at 15A. In general, integration has often been conflated with adequacy in a manner suggesting that the two notions are inextricably linked. As I have attempted to show in this discussion, that is not the case. It is completely possible to offer an opportunity for an education that is pedagogically sound even in the absence of meaningful diversity within a given school.
the make-up of the teacher corps is a matter of concern; at present, teacher demographics frequently fail to reflect the diversity of the community being served.\(^{72}\)

Finally, I note that an appropriate response to the educational needs of students at such desperate risk need not eliminate all efforts to provide a diverse educational experience. Innovation and creativity can lead to different means of serving that end. For example, one Milwaukee parent noted that greater diversity might be achieved if high schools were intermingled.\(^{73}\) This might be accomplished through shared courses using technology, mini-summer courses at campuses otherwise vacant during the summer at locations throughout the metropolitan area, or by having students or teachers spend some pre-determined period in other area schools as "visitors." I suspect that members of the Amos generation could provide valuable counsel to such an effort by suggesting feasible ideas, as well as by delineating infeasible suggestions.

(2) We must understand the difference between desegregation—merely bringing down barriers as a matter of form—and integration—including those formerly excluded completely in the enterprise—and work to achieve the latter.

Several of our contributors recalled the separation resulting from "tracking."\(^{74}\) In the same vein, reflections on the current experience of children enrolled in suburban schools in the greater Milwaukee metropolitan area (principally under the 220 Program) include the following:

[Integration is defined in different ways, and that makes it difficult for the suburban schools to claim success.\(^{75}\) . . .

\(^{72}\) \textit{Brown at 50}, \textit{supra} note 6, at 14 (reporting that in 2001, 7% of the public school teaching force was African American. In comparison, 17.1% of the public school population was African American); \textit{see also} Martin Haberman, \textit{Increasing the Number of High-Quality African American Teachers in Urban Schools—Statistical Data Included}, J. OF INSTRUCTIONAL PSYCHOL. (Dec. 1999), http://www.findarticles.com/p/articles/mi_m0FCG/1-3_4/26/ai_62980768. (In Milwaukee in 1988, 31.8% of the students in MPS were white as were 78.9% of the teachers. Black students comprised 54.9% of the student population and black teachers comprised 18% of all teachers. By 1997, the white student population in MPS had declined to 18.6%, while black students comprised 61.3% of the student body. In that same year (1997), white teachers were 75.5% of all teachers, while the percentage of black teachers had risen (insignificantly) to 19%).

\(^{73}\) \textit{See Carr, supra} note 49, at 15A.

\(^{74}\) \textit{See Description of a Project, supra} note 14, at 54 and comments at n.28.

\(^{75}\) Carr, \textit{supra} note 49, at 1A.
Suburban schools should provide more of the multicultural curricula and diverse teaching staffs [for the benefit of] both minorities and white students.\textsuperscript{76}

One interviewee, recalling only one minority professional in the suburban high school that she attended said that "[t]he majority of students of color, especially those who didn’t live [in the community] were completely alienated in classrooms."\textsuperscript{77} Another interviewee, on the other hand, asserted that the "community . . . accepts students who don’t live [there] as family."\textsuperscript{78} He conceded that separate eating tables, for example, remained a pattern. A third set of comments described as somewhere in between these two viewpoints came from a family that included several children who had participated in the 220 Program. These comments speak of initial tension followed by signs of acceptance now replaced by lessening enthusiasm for the 220 Program.\textsuperscript{79} The prevailing attitude as of one year ago was perceived to be "one culture and one way."\textsuperscript{80} This does not bode well for true integration and must be reversed.

(3) The link between an adequate education constitutional in every respect including diversity, and the national interest has been acknowledged. Justice Sandra Day O’Connor writing for the majority in \textit{Grutter} commented as follows: "[N]umerous studies show that student body diversity promotes [better] learning outcomes, and ‘better prepares students for an increasingly diverse workforce and society, and better prepares them as professionals.’"\textsuperscript{81}

\textbf{VI. THE LONG VIEW: WHAT’S AT STAKE?}

In 1995, Justice David H. Souter observed during oral arguments in \textit{Jenkins v. Missouri} that the enduring "attitudes" of segregation must be addressed, saying that "[i]t takes time to change."\textsuperscript{82} Desegregation was much more extensive, at least initially, for the \textit{Amos} generation than

\textsuperscript{76} Id at 15A.
\textsuperscript{77} Id.
\textsuperscript{78} Id.
\textsuperscript{79} Id.
\textsuperscript{80} Id.
was true for the \textit{Brown} generation. As I have noted earlier, the experience seemed an important, often positive one for those involved during the \textit{Amos} years.\footnote{See supra notes 33-38 and accompanying text.} Of equal importance, however, those comments speak of factors that undermined the possibility of lasting positive change:

You had your in-school friends and your out-of-school friends... \textit{It was always a very integrated group of friends in school. Out of school, it basically stayed neighborhood friends...} I... had an experience with having my purse stolen... I could never prove it, but I knew darn well who took it. I was very naive and I was too afraid to... say, "I think that person took it," and I think that's a fear that my parents put in me more than anything else—be afraid, you can't trust them... \textit{I think in some way our parents were very racist. That gets passed down... It's something you learn from generation to generation. No matter how much you don't want to be like your parents, you find yourself doing the same things they did.}\footnote{See Borsuk, supra note 38, at 1A (emphasis added).}

"What failed is that our society doesn't want to deal with race on a realistic level."\footnote{Id. (emphasis added).}

In short, progress made toward racial understanding within the schools can be thwarted or reversed when children encounter the racial fault lines that persist in the larger society.

I have learned through personal experience that continuing racial estrangement need not be inevitable. My older daughter was required to prepare an essay as a part of an admission process. She said, in part:

With regard to race relations, [my friends and I] differ so radically from our parents that we are unable to truly understand or appreciate the events of their lifetimes. And these differences run far deeper than a simple generation gap. \textit{Brown v. Board} not only represented a legal change but [also] catalyzed a social metamorphosis...
that has come of age in my generation.\textsuperscript{86}

Her experience and that of her friends has taught me that sharing school life day by day absolutely can dispel mystery and build community. In her case, those personal and social ties extend into all phases of her life.

Many others in her generation, however, as well as increasing numbers of those in younger generations remain at substantial risk of continued racial estrangement. The attitudes of others of her generation—the first post-\textit{Brown}\textemdash suggest that much remains to be done. A 1999 survey examining the racial attitudes of Americans between the ages of eighteen and twenty-nine found that while there is support for racial equality, there is also surprising comfort among a "slim majority" of those interviewed with the notion of "separate but equal."\textsuperscript{87} That study concluded with the recommendation that educators expand their efforts to provide a "multicultural education" in the continuing effort to overcome differences remaining between the races.\textsuperscript{88}

A recent article examining the changing face of race and its impact upon life in Montgomery Blair High School in Silver Spring, Maryland recounts life fifty years post-\textit{Brown} in "a place where race sometimes matters a great deal and sometimes doesn't matter at all."\textsuperscript{89} Demographically, the school's population reflects the country's increasing racial diversity: black students constitute thirty-two percent of the 3300 students, Hispanics twenty-six percent, Asians fourteen percent, and one-third either current or former students in programs for non-English speakers.\textsuperscript{90} Twenty-eight percent of the student body is white.\textsuperscript{91} The school with its robust diversity and in which "everybody is a minority" is atypical; the article notes that Washington area schools,

\textsuperscript{86} Used with permission of the writer. The entire statement can be found at \textit{Description of a Project}, supra note 14, at 65; \textit{Bearing the Costs of Realizing Equality}, supra note 9, at 26.


\textsuperscript{88} \textit{Id}.


\textsuperscript{90} \textit{Id}.

\textsuperscript{91} \textit{Id}. The article notes that among the students for whom English is a second language, fifty languages are spoken and more than eighty countries are represented.

\textsuperscript{91} \textit{Id}. If present trends hold, demographers estimate that by the year 2050 white Americans will constitute barely fifty percent of all Americans. \textit{See Bearing the Cost of Realizing Equality}, supra note 9, at 28.
like schools across the country, are becoming less rather than more diverse.\textsuperscript{92}

As was true with classes during the years following the \textit{Brown} and \textit{Amos} cases, there is an academic divide: Blair’s two most touted academic tracks—the science, mathematics and computer science magnet program, and the communication arts program—are overwhelmingly white and Asian. Regular classes, meanwhile, are filled mainly with black and Hispanic students. In remedial classes for kids struggling to read on an elementary school level, there often are no white kids at all.\textsuperscript{93} The divide persists as students form cliques and select extracurricular activities.\textsuperscript{94}

Of importance, however, the students do not themselves see race as a divisive issue within the school. They report that they make friendships easily “without a second thought, or even a first thought”\textsuperscript{95} to race; one student commented: “I notice people’s race. . . . I just don’t care very much.”\textsuperscript{96} Moreover, they appear to reach out to each other across academic lines.\textsuperscript{97} Finally, school administrators are seeking to diversify the school’s most academic programs by “recruit[ing] more black and Hispanic students into the magnet program by encouraging them to take algebra in middle school.”\textsuperscript{98} (Algebra is a pre-requisite for acceptance into the programs.) Minority students’ test scores are also being reviewed in order to identify those who could meet the challenge of those programs.

Unfortunately, as was true for the \textit{Amos} generation, life intrudes. One student, who has mostly white friends in school, worries that he will be perceived as a misfit when he hangs out with black friends outside of school.\textsuperscript{99} Another black male student who “revels in the multicultural camaraderie at Blair” reports that as he walks around Rockville, “women [move] away from him and [give] him ‘funky looks.’”\textsuperscript{100}

Clearly, much remains to be done.

\begin{footnotes}
92. Mui, \textit{supra} note 89, at 22.
93. \textit{Id}.
94. \textit{Id} at 26.
95. \textit{Id} at 30.
96. \textit{Id} at 28.
97. \textit{Id} (“When [Principal Gainous] walks the hallways, he sees communication arts students tutoring immigrant kids, and students of all backgrounds and academic abilities using the library.”).
98. \textit{Id}.
99. \textit{Id} at 30 (“[H]e worries that [his black friends outside of Blair] think that he’s ‘too soft.’” This student reports that “he often feels suspended between two worlds.”).
100. \textit{Id}.
\end{footnotes}
VII. CONCLUSION

Your work here in Milwaukee and the Brown conferences has been premised upon the unquestionable importance of education. Further, we now know that sharing life day by day in the nation's schools builds community. This integrated experience is part and parcel of the rich blend of pedagogical and interpersonal skills that children must possess if they are to enjoy success as citizens of today's increasingly diverse world. A sense of common destiny is also critical if the child is to commit to this common American enterprise. I personally cannot imagine from whence this well-informed commitment, extending across all that can divide, might come if not from the nation's schools. Nor do I wish to think of the prospects for our future as a nation should we fail to meet the challenge of making it so.

Failure in this quest is not an option. Let us remember why we—you—started this quest: because children were being systematically denied the education to which they were entitled as a matter of law because of the color of their skins. Let us also remember what is at stake and why a retreat from past successes is unacceptable: because we now know that a Brown education is not only right for all children, but also right for the nation. Finally, as the struggle to determine how to most effectively provide an education adequate and constitutional in all dimensions to all children continues, let us learn from the experiences, both good and bad, of those who lived through prior struggles to realize the Brown vision.