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Counter-protesters tear a Confederate flag during the white-nationalist rally in Charlottesville on August 12

Desegregated, Differently

Half of Hartford's schoolkids attend integrated schools, thanks to a legal strategy that might work elsewhere.

BY RACHEL M. COHEN

Hartford, Connecticut, is struggling. Teetering on the brink of bankruptcy, the state's tiny capital wrestles with many of the same economic challenges as other predominantly poor post-industrial cities along the East Coast. Yet Hartford boasts one remarkably unique feature: Nearly half of its public school students attend desegregated schools.

In most places, desegregation was a 20th-century phenomenon that was pulled apart by a skeptical Supreme Court and political backlash from white families. But in Hartford, it's still happening, thanks to *Sheff v. O'Neill*, a 1996 state Supreme Court decision in which the court ruled that the region's racially segregated schools denied Hartford children their constitutional right to an equal education. By suing the state rather than the federal government, the plaintiffs did not need to prove the state's intent to discriminate (a high legal bar to reach), and instead focused on Connecticut's obligation to provide all students with equal opportunity. It was a novel legal strategy at the time, and remains so today.

Over the past two decades, Connecticut has slowly but surely funded the creation of integrated magnet schools both within Hartford and in the surrounding suburbs, and paid for Hartford students to attend predominately white schools outside their city's borders. The magnets—which have proved popular and academically distinguished—come with some rules: No more than 75 percent of a school's student body can be black or Latino, and, correspondingly, no less than 25 percent can be white or Asian.

But some Hartford leaders have tired of *Sheff*, which reduces their authority over

city schools, and encourages students to look beyond Hartford for public education. A number of Hartford parents have also grown frustrated that their children who can't land spots in the coveted magnets are falling behind (52 percent of Hartford students are still enrolled in segregated neighborhood schools). Connecticut's worsening fiscal crisis has also ramped up *Sheff* resistance from state officials, who have signaled—implicitly and explicitly—their desire to scale back the legal remedy.

So nearly three decades after they first filed suit, the plaintiffs are headed back to court—and longtime observers say they've never seen the two parties so far from an agreement. The state wants not only to be freed from court oversight, but also to reduce the number of white students the existing magnet schools must accept, a proposal supporters say will open up more opportunities for marginalized students, and critics say will cripple the goal of integration. The fight is being closely watched by civil rights advocates across the country, who want to know if Hartford and *Sheff* are a viable new model for school integration—or a dead end.

"I figured this would be a long-haul effort," says Elizabeth Horton Sheff, an African American community activist, and the lead plaintiff for *Sheff* since the late 1980s. "But I did not expect this kind of resistance to a constitutional question that's been asked and answered."

CONNECTICUT IS AFFLUENT, predominantly white, and largely suburban. Like other New England states, Connecticut largely missed the migration of African Americans from the South, and Latinos from Mexico and the Caribbean. For decades, the state's relatively few African

Americans mostly clustered in Hartford, Bridgeport, and New Haven—a pattern born out of the state's racist housing laws, which had barred black residents from owning land, forcing them into ghettos where renting was cheaper.

The *Sheff* lawsuit began with John Brittain, an African American civil rights attorney who arrived to teach at the University of Connecticut School of Law in 1977. Before then, Brittain had litigated school desegregation cases in Mississippi, and soon after his arrival he began studying the demographics of Connecticut's schools and neighborhoods, to see if similar legal action might be necessary.

By 1983, Brittain had plans to move forward with a federal school desegregation case. Yet one challenge was a rapidly changing legal landscape following a 1978 U.S. Supreme Court decision, which said that unless it could be shown that a district deliberately sought to discriminate by race, it could not be held responsible for school segregation. Still, Brittain and his team felt they could prove intent.

At the last minute however, they pulled the plug. "Like a NASA shuttle launching, we aborted," he tells me. One factor motivating the decision, Brittain says, was a sense that the community was not ready, that Northerners viewed desegregation as something only necessary for Southerners reckoning with Jim Crow.

But five years later, in 1988, everything changed. The state's then-education commissioner, Gerald Tirozzi, published a report concluding that school segregation was a growing trend in Connecticut, with 80 percent of the state's minority students concentrated within 14 of its 165 school districts. Following the release of the explosive report, the education

commissioner emphasized the state's collective responsibility for the problem and proposed financial incentives for school districts to voluntarily reduce segregation, but stressed that if this proved ineffectual, the state education board should consider a mandatory desegregation plan. It was—and still is—very unusual to have state officials propose strong desegregation initiatives rather than have those initiatives designed by courts.

Leaked to the *Hartford Courant*, the Tirozzi Report was featured as the paper's front-page scoop just before Christmas in 1987. It generated massive amounts of community and political attention, and within four months of its release, Brittain and his colleagues drafted their school segregation complaint against the state.

"We strategically solicited just about every social, educational, religious, and community organization to sign on to a pledge to support our case," Brittain says. "The enthusiasm was overwhelming." Unlike the ditched federal suit from a few years earlier, this time Brittain felt community members were ready.

Filed in 1989, the suit was tried in the early 1990s. At the time, minority students comprised more than 92 percent of Hartford's public school enrollment, and of the 21 surrounding suburban towns, only seven had school districts with minority enrollments that exceeded 10 percent.

Sheff was named for Milo Sheff, a black fourth-grade student in Hartford, and his mother, Elizabeth. Sixteen other children were named as plaintiffs—four more black children, six Latino, and six white. It was brought not only for Hartford students stuck in impoverished schools, but also for suburban students "deprived of the opportunity to associate with, and learn from, the minority children" in Hartford, as the complaint read. *Sheff* lawyers argued that inequality by both race and poverty denied the plaintiffs their constitutional right to an equal education.

Connecticut's Supreme Court issued its landmark 5-4 ruling in the spring of 1996, holding that "racial and ethnic segregation has a pervasive and invidious impact on schools"—and violated the state's constitution. (The court ignored the plaintiffs' poverty argument.) Instead of outlining a remedy, however, the court ordered the governor and the legislature to develop a solution.

Perhaps unsurprisingly, the state's initial response to *Sheff* was feeble. In 1997, Connecticut's legislature authorized new investments in early childhood education, a state takeover of Hartford's schools, and the creation of integrated magnets coupled with an expanded interdistrict school choice program. But the amount of money allocated to the remedies was insufficient, and weak financial incentives led to minimal suburban school participation in interdistrict choice. (The amount of money the state offered receiving districts to take in students was generally not enough to offset the cost of educating them.) The voluntary nature of



Milo Sheff speaks to reporters in Hartford, July 9, 1996.

the *Sheff* remedy helped it avoid political backlash, but also severely watered down its impact.

Many blamed the court for not ordering its own, stronger remedy. "One of my signature criticisms is that after the courts find liability against an educational authority for violating the Constitution ... they remand the remedy phase back to the perpetrators of the wrongdoing," says Brittain. "I call this asking the fox to guard the hen's coop."

But the plaintiffs kept up pressure, and by 2003, the state finally negotiated its first settlement agreement, committing to have 30 percent of Hartford students enrolled in integrated schools by 2007. Though progress felt sluggish at times—not enough suburban schools were reserving seats for Hartford students, magnet construction was slow, and by 2006 still fewer than one in ten Hartford stu-

dents were enrolled in integrated schools—observers remained optimistic, saying things were at least plugging along in the right direction. Even when leaders may have grumbled behind closed doors about costs or the strategy, publicly they embraced their legal obligations.

But over time, some Hartford leaders began openly criticizing *Sheff* and questioning its value. As the four-year settlement agreement neared its end in 2007, Hartford's new school superintendent went before the state legislature to testify that magnets were not achieving their goals and "there is no research to suggest that minority students will do better by sitting next to a white student."

Elizabeth Horton Sheff, the lead plaintiff, and Eugene Leach, another plaintiff, wrote an op-ed condemning the superintendent's remarks, noting that he cherry-picked struggling magnets, misrepresented the social science research, and tried to relitigate a matter the Supreme Court had already settled. "The question for Connecticut officials is how, not whether, to achieve desegregation," they wrote.

Though state officials do not need Hartford's approval to allocate funds for the *Sheff* remedy, Connecticut's legislature was ambivalent about distributing more money without Hartford's explicit support. Some also waffled on committing more funds, given the slow progress made since 2003. So, faced with a political impasse, the plaintiffs again went to court, demanding better and faster compliance with *Sheff*.

They were successful, and the new settlement negotiated in 2008 was one both parties agreed was far more likely to facilitate desegregation than its predecessor. "Under the first stipulated agreement, everyone saw their roles differently. ... Now we expect there to be better coordination," said a state Department of Education spokesperson at the time. The agreement called for expanding magnets and interdistrict choice, and for the first time, Connecticut committed to a detailed road map to end racial segregation faced by all Hartford's children.

By April 2009, two decades after the suit was initially filed, a state official who worked on *Sheff* remarked that there had been more progress toward integration in the preceding year than in the past decade. The University of Connecticut also released a report in 2009 finding that attending an interdistrict mag-

net school had positive effects for students in reading and math, and that magnet students reported more positive intergroup relations than non-magnet students in the region. Between 2008 and 2013, the number of Hartford students enrolled in integrated schools jumped from 19 percent to 41 percent.

For a while, the state supported integration efforts not only in Hartford but also in the highly segregated metropolitan areas of Bridgeport and New Haven. The magnet schools were extremely popular everywhere, yet at the same time, state legislators were growing wary about all the money they were spending. By September 2009, lawmakers issued a moratorium on constructing new magnets outside the Hartford region, which they said they were obligated to continue building because of *Sheff*.

EVEN AS STATE LEADERS ostensibly kept up their commitment to Hartford desegregation, some city officials were proposing to move in a different direction by doubling down on efforts to elevate the so-called education reform movement. Since 2006, Hartford's then-superintendent, Steve Adamowski, had pushed a plan to transform Hartford Public Schools into an all-choice "portfolio" district, a national strategy backed by the Seattle-based Center on Reinventing Public Education. In 2011, Hartford school officials launched a campaign to dissuade families from choosing suburban magnets. One press release said parents should "avoid the temptation to gamble with their children's future" and enroll their student in a Hartford public school instead. Another district-sponsored TV ad featured a Hartford teacher saying, "Your child's education is a right and not a game. Why risk their future on a [*Sheff*] lottery and then a waiting list?" When the plaintiffs criticized the district's "Choose Hartford" campaign, Adamowski defended it, saying the dragged-out *Sheff* remedy was harming Hartford schools.

Hartford's school board has also had an uneasy relationship with *Sheff*. (It's not a formal party to the case, yet is generally expected to greenlight plans the plaintiffs and state negotiate.) "*Sheff* is an abrogation of democratic governance because it transfers [decisions] to confidential negotiations that many, if not most, people don't know exist, decisions

that are the responsibility of state and local government," says Richard Wareing, an elected Hartford school board member who recently served a three-year stint as board chair. "There is no transparency. There is no accountability."

ONE PROBLEM DOGGING Hartford desegregation has been a lack of clear regional coordination. When federal judges ordered school districts to desegregate in the South, many formed new city-countywide school districts, such as Charlotte-Mecklenburg Schools in North Carolina, and Metropolitan Nashville Public Schools in Tennessee. Yet Connecticut, a state with 169 small towns, has an entrenched culture of parochialism that is unlikely to change without pressure from a court. While the Hartford metropolitan area has been willing to agree to some regional cooperation for services like hazardous waste collection and firefighting, on most everything else the small towns remain fiercely autonomous.

Accommodating this tradition of "local control" has led to disjointed, kludgy efforts to desegregate the region, especially since the most serious segregation exists among districts, not within them.

Between 1998 and 2016, Bruce Douglas led the Capitol Region Education Council, or CREC, a quasi-public agency that manages the inter-district program and 17 *Sheff* magnet schools. When I asked him to reflect on *Sheff*, he praised Connecticut's Supreme Court for pushing a voluntary plan, and thereby avoiding the problems of so-called "forced busing." That said, Douglas, who also believes there needs to be more regional cooperation, admits that the court could have played a larger role pushing that along.

Absent such court mandates, he says, "you would need legislators who have the courage to say, 'I'm willing to lose my job by voting in favor of regionalizing school districts,' because there is no doubt they'd be voted out the next cycle."

Sheff plaintiffs have pushed for more regional coordination at the negotiating table, though they too have stopped short of calling to revamp district lines.

"We've never pushed for redrawing school district lines for political reasons, but short of that we've pushed for regional solutions ad nauseam, and they've never gone anywhere," says Martha Stone, the lead attorney for the

Sheff plaintiffs. "We've pushed for regional pre-school, for more mandatory participation from the suburban districts [in interdistrict choice], for more carrots for suburban districts that participate at greater rates, for housing mobility certifications that are tied to education options."

The state, wary of costs and of political blowback, has consistently rejected these proposals, resulting in a series of year-to-year goals, with the prospect of long-term, regional planning feeling at times more elusive than ever.

Andy Fleischmann, a Democratic state legislator from the affluent suburb of West Hartford who chairs the Education Committee, is quick to note that many people have strongly differing views on the lawsuit. "Where you stand, depends on where you sit," he says. In his community, he admits no one has seriously pushed for redrawing district boundaries. "You'd be hard-pressed to find anyone in my town who would say, 'Oh sure, let's erase the school district's boundaries,'" he says. "My town has worked hard to make sure that we've maintained great schools and there's just a huge number of people who wouldn't want to go ahead and take our great school system, change its boundaries, and potentially throw off what's been working well for as long as it has. That's true of folks who are sitting in Wethersfield, or East Hartford, or Windsor and Bloomfield. That's just not something that's been discussed very seriously by many parties."

Rather than redrawing district lines, Fleischmann supports expanding financial incentives to induce more suburban schools to voluntarily participate in the interdistrict program. When I asked about empowering the education commissioner to mandate greater suburban participation, he quickly dismissed the idea. "That's been brought up a few times over the years, but that's never gotten far. Superintendents and school boards of local districts say, 'Wait a minute, why would that be a good thing from where we sit?'"

Still, calls for greater regional cooperation have grown more pronounced in recent years, in part because the state's fiscal crisis has ramped up pressure on leaders to identify economic inefficiencies. And longtime observers say there's a greater recognition now that Hartford Public Schools and CREC must work together to desegregate the region, rather than

position themselves as competitors for students, as has been the case at times in the past.

What's needed now, CREC's new executive director, Greg Florio, told me, is a comprehensive plan. When asked what's stopping that from becoming a reality he cited the continual leadership turnover within Hartford and a lack of clear direction from the state.

But it's not just *Sheff*'s implementation that's in flux. The demographic patterns within the state of Connecticut have also been changing over the past 15 years, with suburbs growing more diverse, and in some cases, more poor. Twenty-four percent of school-age children in the towns surrounding Hartford this past school year were black or Hispanic. The population shifts have prompted some to wonder if the *Sheff* remedy should be revised to reflect these not-so-black-and-white realities.

SHEFF POLITICAL TENSIONS have come to a head over the past two years.

One key factor is Connecticut's worsening fiscal crisis, which threatens a \$5 billion budget deficit. Despite the state's affluence and Democratic control, lawmakers have been resistant to hiking taxes on its wealthiest residents.

Connecticut's population is also shrinking. Since 1994, the state's 35- to 44-year-old demographic has declined by 20 percent, and fewer prime-age adults means fewer school-age children. All of these issues combine to make school funding particularly contentious, especially since Connecticut relies heavily on local property tax to fund public education.

Although Connecticut has poured in funds to construct new magnets, it has not increased the per-pupil spending for those magnet students since 2010—despite increasing per-pupil spending at traditional schools every year. As a result, suburban districts have had to pick up a greater portion of the tab to send students to magnet schools, and some are growing increasingly unhappy about it. “I think the state tried very hard to do right, especially at the beginning, but people got tired,” says Sandra Cruz-Serrano, CREC's deputy executive director. “The political environment started to change, especially as CREC was building these beautiful new schools while suburban schools from the 1950s struggle to renovate.”

Many leaders, families, and educators have concrete ideas of how to improve *Sheff*—to make it more user-friendly, more cost-effective, and more equitable—but it's nearly impossible to make headway on these adjustments without leadership from the state, and many state officials remain cool to the program. “The state has never seen *Sheff* as a real benefit to them; they've only treated it as something that was onerous,” Douglas says.

Not all Hartford leaders believe *Sheff* can be sufficiently improved. Craig Stallings, the Hartford school board chair, doesn't think there can be any real tweaks to the remedy,

FOR THE FIRST TIME, ATTORNEYS IN ANOTHER STATE—MINNESOTA—HAVE SUED STATE GOVERNMENT TO COMPEL DESEGREGATION, FOLLOWING THE MODEL OF *SHEFF*.

and even if adjustments were possible, the city would still be unfairly deprived of local control.

Stallings, an African American man born and raised in Hartford before *Sheff* was litigated, speaks highly of his education, which he says was rigorous and culturally responsive, despite being segregated. “Quality is more paramount than integration,” he tells me. “I'm the anti-*Sheff* guy around here.” Another vocal *Sheff* critic is Thirman Milner, an 83-year-old Hartford resident and the city's first African American mayor, elected in 1981. Milner, who originally supported *Sheff*, now says it would be better if the lawsuit were abandoned, and the state just gave money to the city to do what it sees fit. “I think the Hartford board would have a much better idea of how to spend the money, and I think we need to get rid of *Sheff* if we really want to stabilize the schools,” Milner says.

John Brittain laughs hard when I ask him if he thinks the state would distribute the same

kinds of resources to Hartford without *Sheff* mandates. “No, and I believe that's just a smoke-screen for opposition to school integration, just like ‘busing’ was always a smokescreen,” he says. “‘It's not the bus,’ as we used to say. ‘It's us.’”

Brittain's skepticism seems justified: The state funds other segregated regions of the state far less, and is already attempting to shift more *Sheff* costs onto local suburban districts. In 2015, the state signed a one-year agreement to expand seats in existing magnet schools, but Connecticut officials said they would refuse to open new magnets in the future, and refused to increase magnet per-pupil funding. Even today, the existing magnet schools are operating only at 93 percent capacity, in part because the state has capped the number of seats it will fund.

Julie Goldstein, the principal of Breakthrough, an award-winning magnet run by Hartford Public Schools, says the last few years of budget cuts have been very painful. “One of the misconceptions of magnet schools is that because we have nice buildings we must be oozing with funds,” she tells me as we sit together in her office. Breakthrough recently had to shorten its school day and eliminate two certified positions, including its assistant principal. Continually reducing their resources, supplies, and field trips, Goldstein says, makes recruiting students much harder.

Desegregation efforts came under even more fire this year, as the *Hartford Courant* ran a series of articles highlighting problems with the school-choice lottery and frustrated Hartford students who struggle to land spots in magnet schools. The fact that some magnets have to leave seats empty in cases where they aren't able to attract enough white or Asian children has added insult to injury to those who already feel like they are being left behind. “One lesson we've learned from all this is that stopping midway, and not meeting the full public demand, creates serious political blowback,” says Phil Tegeler, the executive director of the Poverty & Race Research Action Council, and a former *Sheff* attorney.

In response to Hartford residents' palpable frustration, this year the state announced plans to revamp the *Sheff* legal mandates, saying the current 75 percent cap on black or Latino students is ultimately harmful. The state proposed changing the ratio to 80 to 20.

Many I spoke with, however, say they felt this state action amounted to *Sheff* sabotage, even if it came from a well-intentioned place. Plus, they say, it's a slippery slope to allow the state to change desegregation standards when it's politically convenient to do so.

"It was an embarrassing idea to drop the percentage down; the 75 percent standard is bad enough, and 80 percent is even worse," says Bruce Douglas, CREC's former executive director. "That's not desegregation—and this came from a Democratic administration!"

Sheff critics correctly note that there is no real social science justification behind the 75-to-25 standard, but practically speaking, ensuring there are enough white students in a school matters for integration. And for better or for worse, magnet operators have to attract white parents.

"Our schools are in the suburbs, and one of our charges is to bring white children into those schools," says Florio, CREC's executive director. "There's a tipping point, and once it gets below the 25 percent mark, it becomes a much greater struggle to make it a racially diverse school."

"I'm not saying the state was consciously trying to make *Sheff* fail, but anyone who would come up with this [80-to-20 ratio] would have to realize this would make the magnet schools fail," adds Douglas.

A representative from the Connecticut Department of Education declined to comment for this story, citing pending litigation.

THIS PAST JUNE, FOLLOWING a three-day hearing, a Connecticut Superior Court judge blocked the state's efforts to change the *Sheff* desegregation standards to 80 to 20. But with the latest *Sheff* settlement agreement now expired, plaintiffs are expected to head back to court, and the debate will surely be revived again soon.

The *Sheff* Movement, a coalition of parents, teachers, students, and local residents in Greater Hartford, know the politics of desegregation remain daunting, but they are committed and insist the law is on their side. They have been working to organize and educate community members around integration, but raising money for their efforts has been difficult.

As time passes, the degree to which parents

and community members can even speak to the history of the *Sheff* lawsuit is also quickly fading. When perusing the various magnet school websites, one can find little to no mention of the consequential civil rights lawsuit, including why the *Sheff* ruling has made these schools a reality. The magnets operated by Hartford Public Schools and CREC aren't even referred to as "Sheff schools," but rather as "Hartford magnets" and "CREC magnets." Some magnet school leaders may also prefer de-emphasizing their school's connection to *Sheff*, finding it can be helpful when convincing skeptical white parents who otherwise might be deterred by the desegregation element.

"I understand that schools may not want to be racially identifiable, but it's important to understand the history," says Robert Cotto Jr., a pro-*Sheff* Hartford school board member. "If you're talking about branding, and this is a school that is created as a result of maybe the most important civil rights case in Connecticut, why isn't that being demonstrated? If people have no idea, then that right there undermines the case in the long run. Maybe it's intentional."

Elizabeth Horton Sheff doesn't care if the magnets are named for the lawsuit so long as the desegregation initiative moves forward. But she does think there is a deliberate effort to obfuscate the history, so people "won't have to worry about things like constitutional rights" and can frame the conversation solely around school choice.

And indeed, though integration advocates think the basic framework of *Sheff* can still work—involving a voluntary, choice-based model—there is a genuine concern about what would happen if the state abandoned *Sheff* in favor of a more free-market-based choice system.

In 2014, Cotto published "Choice Watch," a report that found Connecticut charters and technical schools to be highly racially segregated, despite both having statutory requirements to reduce racial and ethnic isolation. Connecticut *Sheff* magnet schools were the only choice-based option Cotto found that significantly reduced segregation. The state's limited resources and enforcement with regard to charter and technical schools, Cotto says, clearly suggest how the state would treat magnets if *Sheff* were to end.

IN 2015, FOR THE FIRST time since *Sheff v. O'Neill*, lawyers in a different state filed a state-level school desegregation lawsuit. Twin Cities attorneys filed a case against the state of Minnesota, saying that the state's segregated schools violate Minnesota's constitutional obligation to provide all students with an adequate education. The suit will be heard by the state Supreme Court later this fall, but regardless of what happens, desegregation advocates are saying we should expect to see more affirmative, state-level litigation in the years to come.

In 2016, President Obama's Education Secretary John King traveled to Hartford and proclaimed that the region's desegregation work could serve as a model for the country. He touted the state's hefty investments in magnet schools that attract suburban kids, and praised Hartford's voluntary busing and interdistrict school choice program.

With conservatives now controlling the federal government, liberal organizations have been focusing much more heavily on how school choice policies, specifically private school vouchers, can exacerbate segregation. But Hartford's magnet and interdistrict program demonstrates how choice can be used (sometimes awkwardly and imperfectly) to promote school desegregation. *Sheff* proves that with clear desegregationist goals, ample resources, and dedicated enforcement, a choice-based system need not lack high-quality, integrated options.

The challenge, it turns out, isn't finding a system that works. *Sheff* is working: 48 percent of Hartford students are already in integrated schools, a massive improvement without parallel almost anywhere else in the nation. Instead, the challenge has been securing the long-term political commitment to sustain that system—and the financial support to ensure it runs well, which is often the same thing. Integration is possible, but no one would deny it's been a long, hard road, with more yet to go.

Still, the original activists who stood up to segregated schools decades ago never thought otherwise. They just believed it would be worth it in the end. "I knew this lawsuit would never directly benefit my son," Elizabeth Horton Sheff told me this past summer. "I didn't do it for my child. I do it for our children." ■