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Race and the American City: The Kerner Commission in Retrospect-An Introduction

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During the mid-1960s, powerful social, economic, and political forces thrust urban issues to the center of national attention, in a context emphasizing the interrelationship between race, poverty, and urban ills. One major contributor to this redefinition of American urban problems was the civil rights movement. The movement, which captured national attention between 1954 and 1964 by its struggle against segregation in the South, turned its attention northward, in 1965, toward the “dark ghettos” of the industrial East and Midwest.¹

At almost the same time, national concern over American poverty—concern that largely had abated following World War II—began to rekindle, sparked in part by the passionate writings of Michael Harrington² and the speeches of the nation’s young president, John F. Kennedy.³

¹ See, e.g., Martin Luther King, Jr., Next Stop: The North, in A TESTAMENT OF HOPE: THE ESSENTIAL WRITINGS OF MARTIN LUTHER KING, JR. 189-90, 192 (James M. Washington ed., 1986) (“The Negro freedom movement will be altering its course in the period to come. Conditions in the North will come into focus and sharpened conflict will unfold.”). Bayard Rustin, a frequent strategist for the movement, explained the necessity for this redirection northward:

[W]hile school integration proceeds at a snail’s pace in the South, the number of Northern schools with an excessive proportion of minority youth proliferates. And behind this is the continuing growth of racial slums, spreading over our central cities and trapping Negro youth in a milieu which, whatever its legal definition, sows an unimaginable demoralization.


³ See MICHAEL B. KATZ, IN THE SHADOW OF THE POORHOUSE: A SOCIAL HISTORY OF WELFARE IN AMERICA 251-73 (1986); JAMES T. PATTERSON, AMERICA’S STRUGGLE AGAINST POVERTY 1900-1985, at 99-114 (enlarged ed. 1986). Patterson noted:

During his campaign for the presidency, [John Kennedy] had been shaken by the misery he witnessed first hand in West Virginia. In August of that year, speaking on
Among the many powerful images evoked by Harrington’s writings, two stood out: impoverished, white mining families in rural Appalachia and desperate African-American families languishing in the nation’s central cities.

[T]here is a new type of slum. Its citizens are the internal migrants, the Negroes, the poor whites from the farms, the Puerto Ricans. They join the failures from the old ethnic culture and form an entirely different kind of neighborhood. For many of them, the crucial problem is color, and this makes the ghetto walls higher than they have ever been. All of them arrive at a time of housing shortage . . . , and thus it is harder to escape even when income rises. But, above all, these people do not participate in the culture of aspiration that was the vitality of the ethnic slum.

At roughly the same time, prominent sociologists who had long been studying “juvenile delinquency” began to develop new explanatory theories that focused less on the moral failings of juveniles and their families and more on the dysfunctionality of urban neighborhoods:

Cloward, Ohlin, and Harrington emphasized that juvenile delinquency reflected a broader deterioration in slum conditions. Their writings, in fact, helped rediscover urban poverty. The older ethnic slum, they said, had been crowded and unsanitary, but the people had a vital community life and, most important, aspirations. . . . [M]ost modern slums were populated by “dregs” who could not get out and by ill-prepared migrants from the South, many of whom carried the added burden of racial discrimination.

Politically, these intellectual currents emerged at a time when Democratic Party leaders were pondering how best to solidify political allegiance among Southern black migrants who had streamed to Northern cities after World War II; collectively, these new urban immigrants promised, by the mid-1960s, to become a crucial political constituency in

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the twenty-fifth anniversary of the passage of Social Security, he praised the law for undertaking a “war on poverty.” His inaugural address five months later referred three times to poverty. “If the free society cannot help the many who are poor,” he said, “it cannot save the few who are rich.”

Id. at 126.

4. Editor's Note: The contributors to this Symposium have used the terms “African American,” “black,” and “black American,” often interchangeably, in their articles. The North Carolina Law Review has elected to defer to its contributors' choices in the absence of any universally accepted racial or ethnic designation.

5. HARRINGTON, supra note 2, at 143.

6. KATZ, supra note 3, at 255-56.

7. PATTERSON, supra note 3, at 101.
key industrial states.8

For different reasons, each of these related developments focused attention on the cities, especially their African-American poor, among whom, Daniel Moynihan warned, a "tangle of patholog[ies]" lay largely unaddressed.9 In response to this challenge, President Kennedy directed his brother, Attorney General Robert Kennedy, to assemble a task force charged with developing a coordinated program to alleviate poverty.10 This legislative program, ultimately unveiled after President Kennedy's assassination in 1963, became a declared "War on Poverty." It was fully embraced by President Lyndon Johnson as a centerpiece of his Great Society.11 Principally an urban strategy, the program took direct aim at

8. Piven and Cloward have argued that President Kennedy's need to secure black political support was instrumental in his drive to develop a national urban policy:

The Democratic presidential candidate in 1960 was keenly alert to [black-white tensions in urban areas]. Uncertain that he could resurrect Southern allegiance, Kennedy made a vigorous appeal to the black vote in the industrial states by campaigning on strong pledges to deal with civil rights and poverty. . . . [T]he ghettos in a number of strategic Northern cities delivered overwhelming Democratic majorities, swinging several critical states to assure his election. . . . A way had to be found to prod the local Democratic party machinery to cultivate the allegiance of urban black voters by extending a greater share of municipal services to them, and to do this without alienating urban white voters. It was this political imperative that eventually led the Kennedy and Johnson Administrations to intervene in the cities.


10. ALLEN J. MATUSOW, THE UNRAVELING OF AMERICA: A HISTORY OF LIBERALISM IN THE 1960s, at 97-127 (1984); PATTERSON, supra note 3, at 127-29, 138-41; James L. Sundquist, Origins of the War on Poverty, in ON FIGHTING POVERTY: PERSPECTIVES FROM EXPERIENCE 6, 8-20 (James L. Sundquist ed., 1969); Adam Yarmolinsky, The Beginnings of OEO, in ON FIGHTING POVERTY, supra, at 34, 34-50. Several different groups within the White House were involved in this planning, including the President's Committee on Juvenile Delinquency and the chairman of the Council of Economic Advisors, Walter Heller. See LEMANN, supra note 8, at 124-55.

the racial ghettos of the nation's cities.\textsuperscript{12}

In his effort to implement the War on Poverty, President Johnson commissioned two major, interdisciplinary examinations of housing and urban policy: the National Commission on Urban Problems (the "Douglas Commission")\textsuperscript{13} and the President's Committee on Urban Housing (the "Kaiser Committee").\textsuperscript{14} When major racial riots tore across the urban landscape during the spring of 1967, President Johnson appointed a third commission, explicitly to explore the links between racial discrimination and urban policy: the Kerner Commission.

Twenty-five years have passed since the Kerner Commission issued its searing indictment of America's urban and racial policies in March of 1968.\textsuperscript{15} Even had our nation's urban ills and racial problems somehow abated during the intervening decades, this anniversary would surely invite historical reflection. Yet the problems outlined by the Kerner Commission continue to defy solution by the nation's policymakers; thus, our twenty-fifth anniversary reflections on the Kerner Commission's work have keen contemporary significance. As the 1992 Los Angeles rebellion

\begin{footnotes}


\item[14] The Kaiser Committee, headed by industrialist Edgar F. Kaiser, was appointed on June 2, 1967, and included a wide spectrum of business and labor leaders. The Committee made interim suggestions to the Administration during the consideration by Congress of what became the Housing and Urban Development Act of 1968, and it submitted a final report to President Johnson on December 11, 1968. REPORT OF THE PRESIDENT'S COMM. ON URBAN HOUSING, A DECENT HOME i-ii (1968).

\item[15] REPORT OF THE NAT'L ADVISORY COMM'N ON CIVIL DISORDERS (Bantam Books 1968) [hereinafter KERNER COMM'N REPORT].
\end{footnotes}
emphasized, millions of the urban poor still find themselves without decent employment, adequate education, affordable health care and housing, or social welfare programs that meet their basic needs. Moreover, the black-white racial divisions that dominated the Kerner Commission's vision of urban life in 1968 remain sharp, although they have been complicated by the emergence of other ethnic groups, such as Puerto Ricans, Mexican Americans, Latinos from Central and South America, Vietnamese, Cambodians, Thais, and Koreans, whose legitimate claims for participation in urban life make political, social, and economic relationships even more challenging.

Meanwhile, in 1993 America's cities face grave, burgeoning social ills, many of them closely intertwined with race and ethnicity: a decline in manufacturing and other blue-collar jobs, inadequate public schools, an explosion of gang- and drug-related violence and crime among the young, the AIDS epidemic and other looming public health challenges, an increasingly impoverished citizenry, and private disinvestment in urban projects. Many urban mayors today find themselves with less money than in 1968 and fewer clear ideas about what can be done to address these overwhelming problems.

To be sure, the urban scene has changed significantly since 1968, and in some respects, as we will document below, conditions have improved. Yet the principal theme of this Introduction is that the fundamental social and economic diagnoses of the Kerner Commission remain pertinent twenty-five years later, while its policy prescriptions remain largely ignored. Whether the Kerner Commission was correct, and, if so, whether the policies proposed in 1968 have continuing relevance for the

16. See generally James H. Johnson, Jr. et al., The Los Angeles Rebellion: A Retrospective View, 6 ECON. DEV. Q. 356, 356-70 (1992) (concluding that the riots "reflected the high degree of frustration and alienation that had built up among the citizens of south central Los Angeles over the past 20 years").

nation in 1993, are fundamental questions that the contributors to this special issue must address in the pages to follow.

In this Introduction, we will undertake two preliminary tasks: first, to review the Kerner Commission's principal findings and recommendations; and second, to provide readers with a statistical account of the altered circumstances that face African Americans and America's cities in 1993. With these data in mind, readers can move on to the essays of the special contributors, probing their ideas, asking what policy prescriptions appear most promising for the decades to come.18


During the mid-1960s, the nation witnessed five consecutive summers of mounting racial unrest in its cities.19 Following especially deadly and destructive riots during the spring and early summer of 1967, Presi-


19. The Kerner Commission traced the inception of the disturbances to 1963, when urban disorders broke out in Birmingham, Savannah, Chicago, Philadelphia, and Cambridge, Maryland. Kerner Comm'n Report, supra note 15, at 35. The number and magnitude of racial disturbances increased in each succeeding year until 1967, when major rioting broke out in Newark, New Jersey, Detroit, Michigan, and 162 other American cities. Id. at 35-108.

The riots followed a decade of mounting white violence targeted at blacks who were involved in efforts to end legal segregation. During the decade between 1954 and 1964, numerous blacks had been killed in the civil rights struggle. See generally The Civil Rights Educ. Project, The Southern Poverty Law Ctr, Free at Last: A History of the Civil Rights Movement and Those Who Died in the Struggle (1989) (profiling 40 people who died in the civil rights movement). In 1963 and 1964 alone, at least 70 black churches were burned or bombed. Daniel S. Davis, Struggle for Freedom: The History of Black Americans 224 (1972); 2 The American Negro Reference Book 451 (John P. Davis ed., 1966). See generally Taylor Branch, Parting the Waters: America in the King Years 1954-63, at 412-523 (1988) (describing the violence and official intimidation that met the Freedom Riders of 1961, second the voter registration efforts by Robert Moses and the Student Non-violent Coordinating Committee in Mississippi); Howell Raines, My Soul Is Rested (1977) (offering reminiscences from front-line civil rights workers about the violence, hostility, and official repression they encountered during the civil rights struggles of the 1950s and 1960s); Juan Williams, Eyes on the Prize: America's Civil Rights Years, 1954-1965 (1987) (picturing the fierce, deadly resistance by white citizens and officials in Alabama
dent Johnson issued Executive Order No. 11,365, creating a National Advisory Commission on Civil Disorders. The President charged the Commission to investigate "[t]he origins of the recent major civil disorders in our cities, includ[ing] the basic causes and factors leading to such disorders," and to propose "methods and techniques for averting or controlling such disorders," including "[t]he appropriate role of the local, state and Federal authorities."

Nine months later, in March of 1968—twenty-five years ago—the Commission, chaired by then-Governor Otto Kerner of Illinois, delivered its comprehensive report to the American nation. The report began with a memorable warning:

This is our basic conclusion: Our nation is moving toward two societies, one black, one white—separate and unequal.

Reaction to last summer's disorders has quickened the movement and deepened the division. Discrimination and segregation have long permeated much of American life; they now threaten the future of every American.

This deepening racial division is not inevitable. The movement apart can be reversed. Choice is still possible. Our principal task is to define that choice and to press for a national resolution.

To pursue our present course will involve the continuing

and Mississippi to efforts by the SNCC, the SCLC, and other civil rights groups pressing for an end to segregation).

The riots of the 1960s were far from the first interracial disturbances to threaten American cities. Prior to the Civil War, there were clashes in Northern cities precipitated by various factors, including white resentment of African-American workers and white desire to maintain economic and political dominance. See, e.g., LEON F. LITWACK, NORTH OF SLAVERY: THE NEGRO IN THE FREE STATES, 1790-1860, at 100-02, 165-68 (1961). In the decades following Emancipation, outbreaks of interracial violence erupted episodically, many characterized by widespread white violence against black lives and property. See generally ERIC FONER, RECONSTRUCTION: AMERICA'S UNFINISHED REVOLUTION 1863-1877, at 425-44 (1988) (recounting Ku Klux Klan violence against African Americans during Reconstruction); JOHN HOPE FRANKLIN, FROM SLAVERY TO FREEDOM: A HISTORY OF AMERICAN NEGROES 336 (1947) (discussing Wilmington riot of 1898); id. at 431-36 (describing riots by whites in early 20th century); id. at 467 (noting that lynchings and riots took 136 black lives in 1917-1918, with 40 murdered by whites in East St. Louis); id. at 472-75 (describing riots against blacks in 1919); id. at 578 (discussing Detroit riot of 1943); 2 GUNNAR MYRDAL, AN AMERICAN DILEMMA: THE NEGRO PROBLEM AND MODERN DEMOCRACY 566-69 (1944) (summarizing the history of riots against African Americans in the United States); ARTHUR I. WASKOW, FROM RACE RIOT TO SIT-IN, 1919 AND THE 1960S: A STUDY IN THE CONNECTIONS BETWEEN CONFLICT AND VIOLENCE 1-218 (Anchor Books 1967) (1966) (examining the riots against blacks in 1919).


polarization of the American community and, ultimately, the destruction of basic democratic values.  

At first glance, the Kerner Commission's warning of a "deepening racial division" seemed to point backwards, toward a pattern as old as American history. From colonial times, America's white majority had insisted upon, and legally enforced, the separate and unequal status of blacks. The Constitution itself implicitly recognized chattel slavery, ensuring the growth of a nation "half slave and half free." Prior to 1861 most free blacks endured intense social segregation and legally enforced discrimination, even in the nonslaveholding areas outside the South. The Civil War ended chattel slavery as an institution but brought no real end to the legal subordination of blacks. Instead, shortly after the nation adopted the Fourteenth and Fifteenth Amendments, national political and judicial leaders repudiated their experiment in racial equality, acquiesced in renewed racial discrimination, and collaborated to guarantee black political disenfranchisement. The white majority, in effect, chose to shape twentieth-century American life and law in the image of Jim Crow.

Yet the Kerner Commission Report, in retelling this tragic history, made clear that its alarm proceeded not merely from the continuance of

22. Id. at 1.
26. See generally Litwack, supra note 19, at vii-xi (describing how free blacks were often residentially segregated, denied access to schools, restricted to menial employments, denied the vote, and required to post bond for good behavior when entering many states).
27. See W.E.B. Du Bois, Black Reconstruction in America 670-710 (Meridian Books 1962) (1935); Foner, supra note 19, at 524-601; John Hope Franklin, Reconstruction After the Civil War 152-227 (1961); C. Vann Woodward, Reunion and Reaction: The Compromise of 1877 and the End of Reconstruction passim (1951); see also Plessy v. Ferguson, 163 U.S. 537, 542-53 (1896) (establishing the "separate but equal" doctrine); The Civil Rights Cases, 109 U.S. 3, 3-26 (1883) (declaring unconstitutional the Civil Rights Act of 1875, which protected blacks' rights to accommodations and privileges).
America's old racial divisions, but from a dangerous new form of separation unfolding in the mid-1960s that would "threaten the future of every American." To some observers, the Commission appeared to be drawing precisely the wrong conclusion about trends in America's racial relations. Following centuries of oppression, African Americans in the mid-1960s appeared finally poised to achieve the equal rights denied them for 350 years. After decades of patient planning and struggle, NAACP lawyers persuaded the Supreme Court in 1954 to repudiate Jim Crow finally. The Warren Court subsequently presided over a remarkable campaign to restore the Fourteenth and Fifteenth Amendments as guarantors of equal rights for black citizens.

Moreover, a decade of direct political activity organized by the Southern Christian Leadership Conference, the Congress of Racial Equality, the NAACP, and the Student Nonviolent Coordinating Committee finally prompted Congress in 1964 and 1965 to enact the two most sweeping civil rights statutes ever written into American law: the Civil Rights Act of 1964 and the Voting Rights Act of 1965. Together, these statutes were designed to end racial discrimination in public education, employment, voting, and governmental programs. Surely, observers reasoned, the promising developments from 1954 to 1965 spelled


33. See generally BRANCH, supra note 19 (recounting the campaigns for civil rights undertaken by Dr. Martin Luther King and the Southern Christian Leadership Conference); CLAYBORNE CARSON, IN STRUGGLE: SNCC AND THE BLACK AWAKENING OF THE 1960S (1981) (discussing the role played by the Student Nonviolent Coordinating Committee in the civil rights movement); ALDON D. MORRIS, THE ORIGINS OF THE CIVIL RIGHTS MOVEMENT: BLACK COMMUNITIES ORGANIZING FOR CHANGE (1984) (examining the origins of the civil rights movement and the role of the "black masses").


the end of America's history of racial division. Surely the nation was moving forward, not backward.36

Yet the Kerner Commission's verdict was strongly to the contrary. Neither Brown v. Board of Education, nor the Civil Rights Act of 1964, nor the victories of Dr. King, nor any of the hard-won accomplishments of the Second Civil Rights Revolution would suffice to heal America's racial wounds. Instead, the Commission implied, the riots were clear proof that antidiscrimination laws alone could never fully redress the residual injuries of slavery and segregation. Ironically, after a decade of remarkable achievements in court and Congress, America faced a racial divide more profound than any in its segregated past.37

A. The Kerner Commission's Vision of the Future

The Commission's stern analysis began with a description of two related social movements, each set in motion during the early 1900s, that had gathered force steadily after World War II. The first was the migration of African Americans from the rural South to the urban North; the second was the departure of urban whites from Northern cities to suburban enclaves. According to the Report, the resulting residential separation was virtually absolute:

- Almost all Negro population growth (98 percent from 1950 to 1966) is occurring within metropolitan areas, primarily within central cities.
- The vast majority of white population growth (78 percent from 1960 to 1966) is occurring in suburban portions of metropolitan areas. Since 1960, white central-city population has declined by 1.3 million.
- As a result, central cities are becoming more heavily Negro while the suburban fringes around them remain almost entirely white.38

These demographic shifts, the Commission observed, were not the product of private choice or other race-neutral explanations. "What white Americans have never fully understood—but what the Negro can never forget—is that white society is deeply implicated in the ghetto.

36. As Erol Ricketts has observed, the civil rights gains of the 1960s led many scholars, for a time, to discount the continuing significance of racial discrimination in American life. Erol Ricketts, The Underclass: Causes and Responses, in BLACK AND WHITE, supra note 18, at 216, 224-25.

37. KERNER COMM'N REPORT, supra note 15, at 234-36.

White institutions created it, white institutions maintain it, and white society condones it."\(^{39}\)

In a series of point-by-point forecasts, the Commission urged that these developments, if left unchecked, would undercut the positive effects of the Civil Rights Act and the judicial decrees of the Warren Court. First, the Commission reasoned, accelerating residential segregation would frustrate black efforts to secure equal employment,\(^{40}\) since "[m]ost new employment opportunities . . . are being created in suburbs and outlying areas—and this trend is likely to continue indefinitely."\(^{41}\) The exclusion of blacks from this emerging suburban work force would be catastrophic; black unemployment (and underemployment) would become "the single most important source of poverty among Negroes,"\(^{42}\) and a principal source of family and social disorganization as well:

Wives of these men are forced to work, and usually produce more money. If men stay at home without working, their inadequacies constantly confront them and tensions arise between them and their wives and children. Under these pressures, it is not surprising that many of these men flee their responsibilities as husbands and fathers, leaving home, and drifting from city to city, or adopting the style of "street corner men."\(^{43}\)

The adverse effects of the developing urban/suburban "mismatch" between jobs and minority workers, the Commission forewarned, would extend beyond individual family circles. Residents of central cities, increasingly low-paid or unemployed African Americans and other ethnic minorities, would experience—indeed, already were experiencing—the interrelated social effects of concentrated poverty: high rates of crime,\(^{44}\) inadequate health care,\(^{45}\) inadequate sanitation,\(^{46}\) and exploitative retail services.\(^{47}\)

The Commission added that this concentrated poverty would seriously limit the educational prospects of urban children:

When disadvantaged children are racially isolated in the schools, they are deprived of one of the more significant ingredients of quality education: exposure to other children with

\(^{39}\) Id. at 2.
\(^{40}\) Id. at 251-65.
\(^{41}\) Id. at 392.
\(^{42}\) Id. at 255.
\(^{43}\) Id. at 260.
\(^{44}\) See id. at 266-69.
\(^{45}\) See id. at 269-73.
\(^{46}\) Id.
\(^{47}\) Id. at 274-77.
strong educational backgrounds. The Coleman Report and the Report of the Civil Rights Commission establish that the predominant socio-economic background of the students in a school exerts a powerful impact upon achievement...

Another strong influence on achievement derives from the tendency of school administrators, teachers, parents and the students themselves to regard ghetto schools as inferior. Reflecting this attitude, students attending such schools lose confidence in their ability to shape their future. The Coleman Report found this factor—destiny control—"to have a stronger relationship to achievement than . . . all the [other] 'school' factors together" 48.

The Commission foresaw decreased housing opportunities for urban minorities, flowing from the increased racial isolation. While inadequate housing was not a problem faced solely by urban blacks, 49 the Commission nonetheless contended that African Americans, because of their higher relative rates of poverty and the pervasive discrimination they faced in the broader urban housing market, would experience the adverse effects of poor housing disproportionately. 50

Discrimination prevents access to many nonslum areas, particularly the suburbs, and has a detrimental effect on ghetto housing itself. By restricting the area open to a growing population, housing discrimination makes it profitable for landlords to break up ghetto apartments for denser occupancy, hastening housing deterioration. By creating a "back pressure" in the racial ghettos, discrimination keeps prices and rents of older, more deteriorated housing in the ghetto higher than they would be in a truly free and open market. 51

Having catalogued the adverse effects on individual citizens, the Kerner Commission next examined the cumulative effect of urban racial isolation on the financial health of the nation's cities:

As a result of the population shifts of the post-war period, concentrating the more affluent parts of the urban population in residential suburbs while leaving the less affluent in the central cities, the increasing burden of municipal taxes frequently


49. KERNER COMM'N REPORT, supra note 15, at 467-68. "Nationally, over 4 million of the nearly 6 million occupied substandard units in 1966 were occupied by whites." Id. at 468.

50. Id. at 473.

51. Id.
falls upon that part of the urban population least able to pay them.

Increasing concentrations of urban growth have called forth greater expenditures for every kind of public service: education, health, police protection, fire protection, parks, sewage disposal, sanitation, water supply, etc. These expenditures have strikingly outpaced tax revenues.\(^5\)

The Commission found little consolation in the likelihood that African Americans soon would gain political power in urban centers. Black mayors and city councils, the Commission reasoned, would lack both the will and the capacity to increase taxes sufficiently on already overburdened city taxpayers.\(^5\) Nor did additional sources of municipal revenues seem promising. Private industry was unlikely to make investments in the racial ghetto; the Commission observed that "[t]he withdrawal of private capital is already far advanced in most all-Negro areas of our large cities," and that "[e]ven if private investment continued, it alone would not suffice."\(^5\) Only the federal government could command sufficient financial resources to step into the financial breach. Yet by the time African Americans would come to power in urban centers,

it is probable that Congress will be more heavily influenced by representatives of the suburban and outlying city electorate. These areas will comprise 41 percent of our total population by 1985, compared with 33 percent in 1960. Central cities will decline from 31 percent to 27 percent. Without decisive action toward integration, this influential suburban electorate would be over 95 percent white and much more affluent than the central city population.\(^5\)

The Commission specifically addressed the crucial role played by the national media in shaping the nation's racial and urban understanding.\(^5\) It faulted the media, less for riot coverage\(^5\) than for their broader failure "to report adequately on the causes and consequences of civil disorders and the underlying problems of race relations."\(^5\)

\(^{52}\) Id. at 393.
\(^{53}\) Id. at 399-400.
\(^{54}\) Id. at 399.
\(^{55}\) Id. at 400.
\(^{56}\) Chapter 15 is titled "The News Media and the Disorders." Id. at 362-89.
\(^{57}\) The Report found that "despite incidents of sensationalism, inaccuracies, and distortions, [the media] ... on the whole made a real effort to give a balanced, factual account of the 1967 disorders." Id. at 363. Nonetheless, the Commission concluded that the coverage "failed to reflect accurately [the] ... scale and character" of the disorders, leading to "an exaggeration of both mood and event." Id.
\(^{58}\) Id. The Commission later elaborated upon this criticism:

[T]he news media have failed to analyze and report adequately on racial problems in
B. The Kerner Commission’s Prescriptions for National Action

The Kerner Commission insisted that these accelerating trends toward racial isolation required an immediate, comprehensive, national response. Only three basic strategies were possible. The nation could adopt a so-called “Present Policies Choice” that maintained the current allocation of resources to urban areas and the poor. Alternatively, it could pursue an “Enrichment Choice” that would “offset the effects of continued Negro segregation” with programs designed to improve the quality of life in disadvantaged central-city neighborhoods, a choice that “would require marked increases in federal spending for education, housing, employment, job training, and social services.” Finally, the nation could exercise an “Integration Choice,” “aimed at reversing the movement of the country toward two societies, separate and unequal.” This choice would provide strong incentives for African Americans to leave central-city residences, enlarging their choices in housing, employment, and education. It would also require large-scale public investments, on an interim basis, in the quality of central-city life for those residents who chose to remain behind.

Having sketched out the alternatives, the Commission urged the nation to make the Integration Choice. It expressed grave doubts about the underlying assumptions of an Enrichment Choice strategy:

In the end, . . . its premise is that disadvantaged Negroes can achieve equality of opportunity with whites while continuing in conditions of nearly complete separation.

This premise has been vigorously advocated by Black Power proponents . . . .

the United States and, as a related matter, to meet the Negro’s legitimate expectations in journalism. By and large, news organizations have failed to communicate to both their black and white audiences a sense of the problems America faces and the sources of potential solutions. The media report and write from the standpoint of a white man’s world. The ills of the ghetto, the difficulties of life there, the Negro’s burning sense of grievance, are seldom conveyed. Slights and indignities are part of the Negro’s daily life, and many of them come from what he now calls “the white press”—a press that repeatedly, if unconsciously, reflects the biases, the paternalism, the indifference of white America. This may be understandable, but it is not excusable in an institution that has the mission to inform and educate the whole of our society.

*Id.* at 366.

59. *Id.* at 395.
60. *Id.*
61. *Id.* at 396.
62. *Id.*
This argument is understandable, but there is a great deal of evidence that it is unrealistic.

The economy of the United States and particularly the sources of employment are preponderantly white. In this circumstance, a policy of separate but equal employment could only relegate Negroes permanently to inferior incomes and economic status.\(^{63}\)

The Commission reserved even harsher judgment for the Present Policies Choice. Of the three, it declared, "the Present Policies Choice—the choice we are now making [by default]—is the course with the most ominous consequences for our society."\(^{64}\) Because current social and policy efforts could not adequately address the employment, educational, and other needs of central-city residents, the Commission warned, to continue along that course would risk heightened anger and renewed violence, especially among despairing, inner-city youth: "If large-scale violence resulted, white retaliation could follow. This spiral could quite conceivably lead to a kind of urban apartheid with semi-martial law in many major cities, enforced residence of Negroes in segregated areas, and a drastic reduction in personal freedom for all Americans, particularly Negroes."\(^{65}\)

Even if widespread violence were averted, the Commission argued that Present Policies Choice would lead almost certainly to increased racial isolation and polarization, unless millions of African Americans were somehow to achieve rapid income advances, or there occurred a "migration of a growing Negro middle class out of the central city . . . which] might diminish the racial undertones of . . . th[e] competition for federal funds between central cities and outlying areas."\(^{66}\)

In casting its institutional weight behind the Integration Choice, the Commission insisted that this choice was: (1) responsive to the expected job growth in the suburbs, (2) compelled by evidence that "socio-class integration is the most effective way of improving the education of ghetto children," (3) best adapted to create an adequate housing supply for poor and moderate income citizens, and (4) most faithful to American political and social ideals.\(^{67}\)

Many of the Commission's specific policy recommendations to implement this strategy, however, actually focused upon programs directed toward inner-city improvements. The Commission proposed, for exam-

\(^{63}\) Id. at 404.
\(^{64}\) Id. at 397.
\(^{65}\) Id. at 398.
\(^{66}\) Id. at 401.
\(^{67}\) Id. at 406-07.
people, to improve employment prospects by (1) consolidating urban employment efforts, (2) increasing manpower and job training efforts in urban areas, (3) taking aggressive action against those employment practices with a racially discriminatory intent or effect, (4) providing tax credits to spur investment in rural as well as urban poverty areas, and (5) beginning "immediate action to create 2,000,000 new jobs over the next three years—one million in the public sector and one million in the private sector." 68 None of these employment proposals directly confronted the problem of residential segregation.

In the public education area, while the Commission supported general efforts to "reduce de facto segregation in our schools," especially the "racial discrimination in Northern as well as Southern schools," 69 it stopped short of calling for mandatory, inter-district school desegregation. 70 Instead, most of its recommendations targeted inner-city schools and children for compensatory or supplemental aid. 71

Only in the housing area did the Commission prescribe solutions tailored to address the urban/suburban racial segregation central to its analysis of the underlying problem. The Commission's suburban housing strategy was twofold. First, it called for "a comprehensive and enforceable federal open housing law to cover the sale or rental of all housing, including single family homes." 72 To implement the law, the Commission urged "voluntary community action" to disseminate information about suburban housing opportunities to urban minorities and to provide education in suburban communities about "the desirability of open housing." 73 Second, the Commission urged an expansion of federal housing programs that would target more low- and moderate-income units in suburban areas, adding six million units to the federal low-income housing inventory within five years. 74

68. Id. at 24, 413-24.
69. Id. at 25-26.
70. The Commission's proposed approach relied upon (1) voluntary desegregation induced by increased federal financial and technical aid to those local school districts that undertook desegregation projects, and (2) strict enforcement of Title VI of the Civil Rights Act of 1964 against districts engaged in illegal discrimination. Id. at 438-44.
71. Id. at 26, 445-55.
72. Id. at 28. The Commission reported that it had "canvassed the various alternatives, and ha[d] come to the firm opinion that there is no substitute for enactment of a federal fair housing law. The key to breaking down housing discrimination is universal and uniform coverage, and such coverage is obtainable only through federal legislation." Id. at 481.
73. Id. at 481.
74. Id. at 474-82. This policy was echoed by the Kaiser Committee, which also called for the development of six million new, federally subsidized housing units by 1973. REPORT OF THE PRESIDENT'S COMM. ON URBAN HOUSING, supra note 14, at 216.
C. The National Response to the Kerner Commission Report

The Kerner Commission warned America that it must choose among three mutually exclusive policy alternatives. Yet within a month after the Commission issued its report, President Johnson renounced a second Presidential term, and later in 1968, Republican candidate Richard Nixon narrowly defeated the Democratic presidential candidate, Vice President Hubert Humphrey. During the succeeding eight years, the urban and poverty programs crafted by President Johnson’s Administration—the War on Poverty and the Model Cities Program—gradually lost executive and legislative momentum.

It would be inaccurate, however, to suggest that the nation took no additional steps to address the social ills of segregation and isolated urban poverty. Prior to the 1968 Presidential election, Congress passed two major pieces of housing legislation, both of which were prompted in part by the riots and the themes of the Kerner Commission Report. One was the Fair Housing Act of 1968, which Congress hastily had appended to other civil rights legislation designed to protect citizens exercising their civil rights from violence or intimidation. Under the Fair

75. Tom Wicker, President Steps Aside in Unity Bid—Says “House” is Divided, N.Y. TIMES, Apr. 1, 1968, at 1; see also President Lyndon Johnson, Address of Mar. 31, 1968, in N.Y. TIMES, Apr. 1, 1968, at 26 (outlining president’s policies on Vietnam War and his political plans).

76. Gary Orfield has characterized the national political response as a near-total rejection of the basic Kerner prescriptions:

With the election of Nixon and Reagan, whose administrations have set the basic social-policy agenda for the last twenty years, the country rejected the fundamental conclusions and recommendations of the Kerner Report. The issue of civil rights disappeared from national politics, and the idea that there was something fundamentally wrong with existing racial conditions, something that required strong government action, was rejected. . . . Presidential politics polarized on racial grounds, with four of the five elections since the Kerner Report won by the candidate who received virtually no black votes.


78. See S. REP. No. 721, 90th Cong., 2d Sess. 3-4 (1968), reprinted in 1968 U.S.C.C.A.N. 1837, 1838. The Act was passed following the assassination of Dr. Martin Luther King on April 4, 1968. As Richard H. Sander recounts the legislative history:

In 1965, President Johnson sent . . . [a comprehensive federal bill banning housing
Housing Act, it became “the policy of the United States to provide within constitutional limitations, for fair housing throughout the United States.” 79 The Act expressly prohibited racial or religious discrimination by governmental or most private owners of multi-family housing 80 in the sale or rental of dwellings, 81 or in their advertisement, 82 their financing, 83 or their commercial brokerage. 84

The Fair Housing Act also required HUD and other federal agencies to “administer their programs and activities relating to housing and urban development . . . affirmatively to further the purposes” of fair housing. 85 Yet the Act provided very few federal tools to compel private compliance. Instead, it placed principal responsibility on the shoulders of aggrieved private homeseekers, who were authorized to file administrative complaints of housing discrimination with HUD and to initiate federal lawsuits if HUD failed to obtain “voluntary compliance” within thirty days. 86 Apart from their conciliation responsibilities, 87 however, federal authorities were given meaningful enforcement powers only if “the Attorney General ha[d] reasonable cause to believe that any person . . . is engaged in a pattern or practice of resistance,” and if “such denial raise[d] an issue of general public importance.” 88

Congress also enacted a second piece of responsive federal legislation, the Housing and Urban Development Act of 1968. 89 This legisla-
tion created programs to spur low-income housing construction, including: (1) interest subsidies for low- and moderate-income homeownership,\textsuperscript{90} (2) a new program to subsidize interest rates for developers who would agree to build and lease dwelling units for low-income persons,\textsuperscript{91} (3) additional funding to increase public housing production by 375,000 units over the 1968-1970 period,\textsuperscript{92} and (4) numerous urban renewal modifications. Three years later, HUD promulgated regulations that were designed to channel low-income housing subsidies toward suburban jurisdictions,\textsuperscript{93} and in 1974, Congress passed additional housing legislation that appeared on its face even more far-reaching and directly responsive to the concerns of the Kerner Commission. The Housing and Community Development Act of 1974\textsuperscript{94} (HCDA) declared that it was aimed at "the elimination of slums and blight . . . and the deterioration of property and neighborhood and community facilities of importance to the welfare of the community, principally persons of low and moderate income."\textsuperscript{95}

The HCDA promised "the reduction of the isolation of income groups within communities and geographical areas and the promotion of an increase in the diversity and vitality of neighborhoods through the spatial deconcentration of housing opportunities for persons of lower income and the revitalization of deteriorating or deteriorated neighborhoods."\textsuperscript{96} Yet the HCDA proved, in practice, to be unfaithful to the lofty assurances of its preamble, operating most often to undermine the

\textsuperscript{91}Id. at 27, \textit{reprinted in} 1968 U.S.C.C.A.N. at 2899.
\textsuperscript{95}Id. § 5301(c)(6).
real needs of the poor. Like the Model Cities legislation that preceded it, the HCDA's Kerner-inspired goals of racial and economic deconcentration were thwarted by powerful political opposition. Furthermore, the HCDA's insistence on "spatial deconcentration" of low-income housing soon led to ironic consequences. As John Calmore noted at the time:

97. The 1974 Act abandoned narrowly tailored categorical grants in favor of broad, community development "block grants" (CDBGs) that allowed local authorities to pursue locally developed priorities. In this way, the Act subordinated the needs of the poor, who were usually politically powerless, to the desires of local political leaders. Although the HCDA formally required each community to develop a Housing Assistance Plan (HAP) that would address likely future housing needs, id. § 5304(a)(1), (c), HUD was granted no substantive power to reject a local plan or to withhold CDBG funds unless the locality's description of local needs and objectives was "plainly inconsistent" with available local data, or unless the proposed use of the block grant funds was deemed "plainly inappropriate" to meet the locality's announced goals. Id. § 5304(c). Likewise, although HCDA formally provided a mechanism for citizen input, the Act required nothing more than provision of information and a public hearing to obtain community views. 42 U.S.C. § 5304(a)(2) (1988). There was neither citizen veto power nor any other meaningful source of citizen resistance to a locality's decision. Id.; Herbert Franklin et al., Inclusionary Programs and the Larger Public Interest, in AFTER MOUNT LAUREL: THE NEW SUBURBAN ZONING 299, 307-15 (Jerome G. Rose & Robert E. Rothman eds., 1977).

HCDA formally required each locality to give "maximum feasible priority" to activities that would benefit low- and moderate-income persons. 42 U.S.C. § 5304(b)(3). The requirement was widely ignored. Indeed, after 1981, localities no longer were required even to file their revised HAP plans when applying for additional CDBG funds. See Pub. L. No. 97-35, 95 Stat. 384, 384-86. During the Reagan years, the needs of lower income persons were thus given even less consideration by many local communities.

98. The Demonstration Cities and Metropolitan Development Act of 1966, Pub. L. No. 89-754, 80 Stat. 1255 (repealed 1975), was designed as a national competition in which cities were invited to submit their most innovative proposals to provide and improve low- and moderate-income housing as well as educational and social services to the urban poor. The winning submissions would receive federal grants to implement their proposals. As originally conceived, however, the Act was more than an urban aid bill; it contained strong antidiscrimination and desegregation components, including provisions requiring the appointment of a federal coordinator for each funded city to ensure compliance with federal civil rights laws and to facilitate cooperation with federal antipoverty agencies. These provisions were stripped from the bill prior to passage because of stiff opposition from Republicans and southern Democrats.

Although the Model Cities program was meant to encourage cooperation between federal and municipal officials to achieve its goals, once the strong antidiscrimination provisions were eliminated and it became clear that most grant requirements would be generously interpreted, the program became pork barrel politics par excellence. Municipalities were granted virtually free reign in allocating the substantial amounts of federal largesse provided by the program. See generally Phyllis A. Wallace, A Decade of Policy Developments in Equal Opportunities in Employment and Housing, in A DECADE OF FEDERAL ANTIPROGRAMS: ACHIEVEMENTS, FAILURES, AND LESSONS 351-52 (Robert H. Haveman ed., 1977) (emphasizing that the federally assisted housing programs of the 1960s were "extremely costly," benefited "only a small percentage of eligible low- and moderate-income families," and were plagued by "widely publicized scandals"); MARGARET WEIR ET AL., THE POLITICS OF SOCIAL POLICY IN THE UNITED STATES 337-38 (1988).
In the name of expanding housing opportunities, the government has actually restricted [the development of] housing for poor inner-city residents and has adversely affected the social and political integrity of their communities. Because [the suburban dispersal of federally-subsidized housing through] fair housing efforts, particularly on behalf of the nonwhite poor, have been and continue to be futile in other than tokenistic terms, the provision of low-income housing and community enrichment [in central cities] is being sacrificed without creating viable alternatives. Moreover, the occurrence of spatial deconcentration is too often merely a reconcentration of people in a different space. Finally, in light of extensive urban reinvestment, many so-called impacted areas are really transitional areas; absent more low-income housing in these areas, many poor will suffer displacement, being replaced by the return of the middle-class to the inner city.99

II. THE URBAN CRISIS OF THE EARLY 1990S: THE KERNER COMMISSION REPORT REVISITED

Our special contributors have been invited to reassess the Kerner Commission's basic recommendations and to reflect on the present circumstances that confront African Americans and American cities, the principal objects of the Kerner Commission Report. As a prelude, we will examine some measures of the contemporary status of African Americans in metropolitan areas—data on income and employment, educational attainment, health care, housing access, public welfare reliance, and political power. We offer the following observations and data to illustrate changes that have occurred since 1968, and to provide a context for the broader discussion in which our contributors will be engaged.100

A. Residential Patterns: Continued Segregation by Race and Class

The Commission contended in 1968 that changing urban residential


100. Of course, few choices are more perilous than those among rival data. Not only do respected observers disagree over how to measure important phenomena, they differ even more on what is important. On subjects as controversial and emotionally charged as American racial relationships and urban problems, these choices can be especially difficult.

The data we have chosen are summary statistics that highlight (1) unresolved racial disparities, (2) continuing urban challenges, and (3) unanswered questions, such as the effects of desegregation on black educational performance, that have particular significance for the current policy debate. We invite our special contributors to bring forward other significant data on these issues.
patterns (most critically, the growing concentration of blacks in the central cities and the departure of whites to the suburbs) would, if unchecked, contribute to the deterioration of every major aspect of urban life. In the decades since the Report was issued, many of the underlying demographic trends forecast by the Kerner Commission have continued, while some have abated. The black migration from the rural South largely has ceased, and there is evidence that some African Americans are returning from Northern cities to the South. Overall, however, the United States’ population in 1993 has become more urbanized than in 1968, and many of the nation’s larger urban centers, especially in the Northeast and North Central states, have retained the spatial characteristics sketched out in the Kerner Report: an older, declining central-city area surrounded by expanding, more affluent suburbs. As predicted, the populations of these central cities have become disproportionately black, Hispanic, and Asian, while suburban communities have remained disproportionately white.

The 1989 report of the National Research Council’s Committee on the Status of Black Americans (the “Jaynes Committee”), summarized the data as follows:

Urban residential segregation of blacks is far greater than that of any other large racial or ethnic group, and there is extensive documentation of the purposeful development and maintenance of involuntary residential exclusion and segregation. . . . Black suburbanization rates remain low, and objective indicators of socioeconomic status that predict suburbanization for Hispanics and Asian-Americans do not do so for blacks. The social


102. In 1960, some 112,885,000 persons (63% of the population of the United States) were classified as residents of “standard metropolitan statistical areas” (SMSAs). By comparison, in 1990, 192,726,000 persons (77.5% of the population) were classified as residents of the redefined “consolidated metropolitan statistical areas” (CMSAs). BUREAU OF THE CENSUS, U.S. DEP’T OF COMMERCE, NO. 32, STATISTICAL ABSTRACT OF THE UNITED STATES: 1991, at 27 (11th ed.) [hereinafter STATISTICAL ABSTRACT].


104. Only 33.6% of white metropolitan residents in 1990 (or 53,686,000 residents) were classified as inhabitants of central cities, while 66.3% (or 105,757,000) were classified as “not central city.” BUREAU OF THE CENSUS, U.S. DEP’T OF COMMERCE, SERIES P-60, NO. 175, POVERTY IN THE UNITED STATES: 1990, CURRENT POPULATION REPORTS 75-79 (1990). Among black metropolitan residents, the pattern is almost precisely the reverse: 67.8% (or 17,344,000) are central city residents, while only 32.2% (or 8,218,000) reside outside central city areas. Id. at 77.
changes of the 1960s and 1970s that affected black status had only slight effects on the residential segregation of blacks in large cities. Blacks are not free to live where they wish, whatever their economic status. Thus, black-white residential separation continues to be a fundamental cleavage in American society.\textsuperscript{105}

Within cities, some researchers report that poor residents have become increasingly concentrated in certain black and Hispanic neighborhoods since 1960. Yet there remains considerable dispute on how best to measure these "ghetto" areas, and whether the increased residential concentration of low-income minorities represents a national trend or is merely the experience of selected cities.\textsuperscript{106} Whatever the best city-by-city

\begin{itemize}
\item \textsuperscript{105} COMMON DESTINY, supra note 18, at 50.
\item \textsuperscript{106} William Julius Wilson has stimulated recent debate on this issue by theorizing that, ironically, the urban black poor have found their plight worsened by the antidiscrimination legislation of the 1960s, which allowed middle-class blacks to obtain better-paying jobs and to leave formerly segregated black neighborhoods for higher-income, suburban neighborhoods. Wilson writes:
\begin{quote}
In the earlier years, the black middle and working classes were confined by restrictive covenants to communities also inhabited by the lower class; their very presence provided stability to inner-city neighborhoods and reinforced and perpetuated mainstream patterns of norms and behavior.
\end{quote}

This is not the situation in the 1980s. Today's ghetto neighborhoods are populated almost exclusively by the most disadvantaged segments of the black urban community, that heterogeneous grouping of families and individuals who are outside the mainstream of the American occupational system.

\textsc{Wilson, supra note 18, at 7-8.}

\begin{quote}
Reynolds Farley disagrees, finding no increasing class stratification in African-American communities due to out migration by middle-income blacks. He agrees that more prosperous blacks fled from "inner city" neighborhoods to other, higher-income neighborhoods within cities during the 1970s, but he argues that this pattern is consistent with historical patterns of residential segregation by class among African Americans. Reynolds Farley, \textit{Residential Segregation of Social and Economic Groups among Blacks, 1970-1980, in The Urban Underclass 274}, 282-93 (Christopher Jencks & Paul E. Peterson eds., 1991) [hereinafter \textsc{Urban Underclass}]. Moreover, Farley found that suburbanization by blacks during the 1970s was not limited to middle- or upper-income blacks. Instead, "blacks in all economic groups crossed city boundaries and moved into the suburban ring in large numbers," id. at 293, so that segregation by social class did not increase among blacks.

Farley explains the increased concentration of poverty in central cities largely as a function of increased poverty rates and persistent residential segregation:
\begin{quote}
If poverty rates increase substantially . . . and the residential segregation of social classes remains about the same, the population in poverty will increase and proportionally more of their neighbors will be poor. The demographic evidence for Chicago is unambiguous about these matters. The change that [William J.] Wilson describes in \textit{The Truly Disadvantaged} is the rise in poverty among blacks, not an increase in residential segregation among social classes.
\end{quote}
\textsc{Id. at 295.}

Douglas Massey has reached a similar conclusion about the interactive effects of race and class segregation in American cities:
account of the changing demographics, by 1980 some 21% of the black poor and 16% of the Hispanic poor (but only 2% of non-Hispanic white poor) had come to live in the high-poverty, inner-city neighborhoods portrayed in the Kerner Commission Report.\textsuperscript{107}

A significant percentage of middle-class blacks did leave central cities for suburban areas between 1968 and 1993.\textsuperscript{108} For example, in 1960,

When racial segregation occurs in the class-segregated environment of the typical American city, it concentrates income deprivation within a small number of poor black areas and generates social and economic conditions of intense disadvantage. These conditions are mutually reinforcing and cumulative, leading directly to the creation of underclass communities typified by high rates of family disruption, welfare dependence, crime, mortality, and educational failure. Segregation creates the structural niche within which a self-perpetuating cycle of minority poverty and deprivation can survive and flourish.


Paul A. Jargowsky and Mary Jo Bane have recently examined the extent to which "ghetto poverty" (defined to include census tracts in which over 40% of the residents are poor) had increased in the nation's Standard Metropolitan Statistical Areas between 1970 and 1980. Paul A. Jargowsky & Mary Jo Bane, \textit{Ghetto Poverty in the United States, 1970-1980, in Urban Underclass, supra}, 235, 239. Jargowsky and Bane conclude that the growth of concentrated poverty in some ghetto areas is a complex process, involving interactions between general increases in the poverty rate and differential out migration of poor and nonpoor persons from ghetto neighborhoods. \textit{Id.} at 269.

In none [of the four cities studied intensively] was the process a simple matter of the poor moving into ghetto areas or the nonpoor moving out. Nor can the situation in any city be described as one in which people basically stayed put but that changes in the poverty rate caused more areas to be pushed over the 40 percent line. Instead there was a general pattern of dispersion—probably part of a longer historical trend—interacting with changes in the poverty rate and continuing high levels of racial segregation.

\textit{Id.} at 268.

Jargowsky and Bane note that while the absolute number of poor persons living in ghettos in metropolitan areas increased by 29.5% from 1970 to 1980, the increases were not spread uniformly among SMSAs. Instead, two-thirds of the increases came in only five Eastern and North-Central cities—New York, Chicago, Philadelphia, Newark, and Detroit—while Southern and Western cities, except for Atlanta and Baltimore, saw decreases in their ghetto populations. \textit{Id.} at 255-56.

107. Jargowsky \& Bane, \textit{supra} note 106, at 252. William Julius Wilson and his colleagues have found "several significant trends" in their examination of changes in the nation's 10 largest cities between 1970 and 1980:

[A] marked increase, in both relative and absolute terms, of urban poverty despite a net loss of population; an even sharper rise in the population living in poverty and extreme-poverty areas; an increasing concentration over time of the poor in the poorest sections of these cities; and widely divergent patterns of concentration between whites and minorities.

William Julius Wilson et al., \textit{The Ghetto Underclass and the Changing Structure of Urban Poverty, in Quiet Riots, supra} note 17, at 123, 131.

about 2% of Cleveland's African-American population lived in the suburbs; by 1990, one-third did. By 1992, a majority of all blacks in the Washington, D.C. metropolitan area lived not in the District of Columbia, but in the suburbs. Indeed, as of 1989, over 27% of all black households lived in the suburbs. Yet, the moves of African-American suburbanites most often led them not to "white" or racially integrated suburbs, but instead to older, near-city suburbs where residents are predominantly black or that quickly undergo racial transition to majority-black status after racial integration begins. Thus, suburban blacks in 1993 typically find themselves, as in yesterday's cities, residentially segregated from the white majority.

109. Norman Krumholz, The Kerner Commission Twenty Years Later, in BLACK AND WHITE, supra note 18, at 19, 25. Nonetheless, an overwhelming percentage of all black suburbanites in Cleveland live in just one community, East Cleveland, which suggests that locational choices for blacks who have managed to move out of Cleveland's ghetto continue to be restricted. From 1960 to 1970, for example, East Cleveland's population went from 2% to 51% black. Id.


111. BUREAU OF THE CENSUS, U.S. DEP'T OF COMMERCE, SERIES P-60, NO. 180, MONEY INCOME OF HOUSEHOLDS, FAMILIES, AND PERSONS IN THE UNITED STATES: 1991, at 10 (1991) [hereinafter MONEY INCOME 1991]. According to the Census Bureau, 57.2% of all African Americans lived in central cities in 1990, while 27.6% lived in suburbs and 15.2% lived outside of metropolitan areas. Id. About 39% of all Hispanic households lived in suburbs in 1989. Id.


113. In the early 1980s, Robert Lake reported that

[the] suburbanization of blacks is being accompanied by the increasing territorial differentiation of suburbia along racial lines—and not by integration. Comparison of the experiences of black and white suburban homebuyers at the end of the 1970s provides strong evidence of a suburban housing market explicitly and implicitly organized along racial lines. . . . The mechanisms in place to enforce and reproduce a structural pattern based on race mean that at the individual level, suburbanization for blacks connotes constrained residential choice, a restricted and less efficient housing search process, and limited opportunities for housing equity and wealth accumulation.


In a more recent study, Orfield and Ashkinaze have reached similar conclusions about black suburbanization in Atlanta during the 1980s: "In Atlanta, suburbanization for most [middle-income] blacks does not mean crossing the color line; it means the color line is moving out to incorporate parts of suburbia. Though they are still outside white society, blacks are
B. Employment and Income Patterns: Persistent Racial Disparities

Economically, the past twenty-five years have witnessed one decade of relative stagnation (the 1970s), seven years of vigorous economic expansion (1982-1989), and three intervals of serious recession (1974-75, 1980-82, and 1990-92).114 During this quarter century, employment prospects and average personal incomes have improved for some middle-class African Americans.115 Yet overall higher rates of poverty have continued to plague African-American communities, unemployment rates among blacks have remained nearly twice those among whites, and significant wage differentials have persisted.

1. Poverty Rates

In 1968, 12.8% of Americans had incomes that placed them below the official poverty line. That percentage varied substantially by race; only 10% of whites were officially classified as poor, while 33.5% of blacks were so classified.116 The Census Bureau also reported that the poverty rate was substantially greater in central cities than in nonmetropolitan areas or the nation’s suburbs.117


115. In 1991, for example, 20.9% of all black households in the suburbs earned incomes of $50,000 or more, while 8.6% of all suburban black households earned incomes in excess of $70,000. MONEY INCOME 1991, supra note 111, at 10. A substantial wage gap continues to separate average black and white suburban households, although black and white wage disparities are narrower in the suburbs than among city dwellers:

<table>
<thead>
<tr>
<th>Median Household Income—1991</th>
<th>White</th>
<th>Black</th>
<th>Black/White Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Suburbs</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Over 1 million</td>
<td>$40,652</td>
<td>29,776</td>
<td>0.7325</td>
</tr>
<tr>
<td>Under 1 million</td>
<td>31,871</td>
<td>20,066</td>
<td>0.6296</td>
</tr>
<tr>
<td>City</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Over 1 million</td>
<td>$30,027</td>
<td>18,243</td>
<td>0.6076</td>
</tr>
<tr>
<td>Under 1 million</td>
<td>26,885</td>
<td>15,963</td>
<td>0.5838</td>
</tr>
</tbody>
</table>


117. In 1970, 9.8% of the nation’s central city households had incomes below the poverty line, compared to 5.3% of the suburban households. Paul E. Peterson, The Urban Underclass and the Poverty Paradox, in URBAN UNDERCLASS, supra note 106, at 3, 7 tbl. 1.
Progress toward the reduction of poverty between 1968 and 1993 has been slight.\textsuperscript{118} Poverty rates declined substantially between 1964 and 1973, but stagnated during the 1970s and rose again during the recessions of the early 1980s, failing to decline significantly even during the high-growth years of the middle 1980s.\textsuperscript{119} With the onset of the recession of 1990, poverty rates began climbing again, and in 1991 were higher than at any time during the 1970s or 1980s—a 14.2% overall poverty rate, reflecting poverty rates of 11.3% among whites, 32.7% among blacks, and 28.7% among Hispanics.\textsuperscript{120}

These overall statistics also mask decidedly different experiences among other demographic sub-groups. Thanks largely to the expansion of Social Security and Supplemental Security Income benefits during the past two decades, the poverty rate among the elderly, both blacks and whites, has fallen dramatically.\textsuperscript{121} Poverty among the young, however, has remained very high: 45.9% of all black children under the age of eighteen lived in poverty in 1991, as did 16.8% of white children and 40.4% of Hispanic children.\textsuperscript{122} Moreover, among single-parent families headed by women—a growing percentage of all families during the past twenty-five years—poverty rates remain very high; over 32% of such

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\textsuperscript{118} Sheldon Danziger and Daniel Weinberg have summarized data on current poverty rates as follows:

Poverty in America in the early 1990s remains high. It is high relative to what it was in the early 1970s; it is high relative to what analysts expected, given the economic recovery of the 1980s . . . ; it is high relative to what is in other countries that have similar standards of living . . . . In addition, the poverty rates for some demographic groups—minorities, elderly widows, children living in mother-only families—are about as high today as was the poverty rate for all Americans in 1949. This lack of progress over the past two decades—the fact that poverty in 1993 is higher than it was in 1973—represents an American anomaly. For the first time in recent history, a generation of children has a higher poverty rate than the preceding generation, and a generation of adults has experienced only a modest increase in its standard of living.


\textsuperscript{119} Id. at 1-2.

\textsuperscript{120} CENTER ON BUDGET & POLICY PRIORITIES, NUMBER IN POVERTY HITS 20-YEAR HIGH AS RECESSION ADDS 2 MILLION MORE POOR, ANALYSIS FINDS 4 (1992).

\textsuperscript{121} In 1964, 28.5% of all elderly persons lived below the poverty line. Sheldon H. Danziger et al., Antipoverty Policy: Effects on the Poor and the Nonpoor, in FIGHTING POVERTY, supra note 8, at 50, 56 tbl. 3.2. By 1980, the percentage had fallen to 15.7%, and by 1990, to 12.2%. CENTER ON BUDGET & POLICY PRIORITIES, supra note 120, at 4.

\textsuperscript{122} CENTER ON BUDGET & POLICY PRIORITIES, supra note 120, at 4.

\textsuperscript{123} According to Mary Jo Bane:

[F]amily structure has changed dramatically over the past few decades, away from traditional married-couple families: in 1959, 85.8 percent of the population lived in male-headed families; in 1983, 74.4 percent did. . . . Household composition has
families were poor in 1989. ¹²⁴

Recent observers have suggested that current poverty rates are a product of several convergent factors: the stagnation in overall wage growth during the past fifteen years, a substantial decrease in federal and state financial assistance to low-income families, and changes in the demographic composition of American families. ¹²⁵ One thing is clear: Cities have been asked to bear the greatest burden of the new poverty. In central-city areas, poverty rates have risen sharply, from 9.8% in 1970 to 15.4% in 1987, while suburban rates have risen only slightly, from 5.3% to 6.5%, during the same period, and nonmetropolitan poverty rates have actually declined from 14.8% to 13.8%. ¹²⁶ Viewed from another angle, central cities, which had housed only 27% of the nation's poor in 1959, by 1985 had become home to 43% of the poverty population. This growing concentration of urban poverty was especially high for African Americans; the proportion of poor blacks living in central cities climbed from 38% in 1959 to 61% in 1985. ¹²⁷

2. Employment Rates

Professors Moss and Tilly have recently summarized the contemporary evidence on black male employment rates:

Black men's fortunes in the United States labor market have taken a decided turn for the worse. Joblessness among black men has climbed through the 1960s, 1970s, and 1980s. Until the mid-1970s, growing joblessness was offset to some extent by the narrowing of racial wage differentials among men. But since the mid-1970s, the black/white wage gap has begun to widen anew.

. . . .

Black men's employment/population ratios have been falling since the 1950s, and have dropped relative to those of white

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changed much more dramatically among blacks over the two decades, with the percentage living in female-headed families rising from 19.0 percent in 1959 to 36.7 percent in 1983.

Mary Jo Bane, Household Composition and Poverty, in Fighting Poverty, supra note 8, at 208, 213-14.


¹²⁶. Peterson, supra note 117, at 3, 7 tbl. 1.

men since the mid-1960s. During the 1960s and early 1970s, the relative fall was driven primarily by black men’s more rapid decrease in labor force participation; since then a widening gap in unemployment rates has accounted for most of black men’s relative decline.128

Christopher Jencks offers additional data confirming that black male unemployment rates have remained more than twice as high as white rates throughout this period.129

One prominent theory ties these lower African-American employment rates directly to residential segregation, suggesting that most new job creation has occurred in predominantly white suburban areas that are relatively inaccessible to urban minorities.130 Research conducted by James Rosenbaum and Susan Popkin seems to support the view that the “spatial mismatch” between the urban residences of low-income minorities and the developing suburban jobs, rather than individual attitudes or job skills, explains much black urban unemployment.131

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Whites</td>
<td>4.4</td>
<td>10.0</td>
<td>8.8</td>
<td>10.2</td>
</tr>
<tr>
<td>Blacks</td>
<td>9.9</td>
<td>23.4</td>
<td>19.4</td>
<td>22.2</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>No Job During Calendar Year</th>
<th>1968</th>
<th>1974</th>
<th>1979</th>
<th>1986</th>
</tr>
</thead>
<tbody>
<tr>
<td>Whites</td>
<td>2.3</td>
<td>3.4</td>
<td>3.8</td>
<td>4.6</td>
</tr>
<tr>
<td>Blacks</td>
<td>4.7</td>
<td>11.6</td>
<td>10.4</td>
<td>13.6</td>
</tr>
</tbody>
</table>

Christopher Jencks, Is the American Underclass Growing?, in URBAN UNDERCLASS, supra note 106, at 28, 44 tbl. 3.


Popkin evaluated the labor market experiences of public housing residents in Chicago's inner-city, nearly all of them African Americans, who were given subsidized housing in suburban communities as part of a court-ordered remedy in a massive housing segregation case. In comparing the experience of these new suburbanites with those of tenants who remained behind in private apartments obtained under the HUD Section 8 certificate program, Rosenbaum and Popkin concluded:

The Gautreaux participants responded to the improved employment opportunities in middle-class suburbs even though they came from low-income communities and had presumably been exposed to both negative attitudes about work and the work disincentives of the welfare system. . . . Most noteworthy, even after we controlled for training, education, and previous jobs, moving to the suburbs led to greater employment than moving within the city. That is, even respondents who were relatively disadvantaged did better in the suburbs than they did in the city.

Other data suggest, however, that suburban versus urban residence is not the sole explanatory variable for racial employment differences. John Kasarda recently has reported that blacks experienced higher overall unemployment rates during the boom years of 1986-1988, even when differences in urban/suburban residence are taken into account.

<table>
<thead>
<tr>
<th>Region</th>
<th>Race &amp; Education</th>
<th>Central City</th>
<th>Suburb</th>
</tr>
</thead>
<tbody>
<tr>
<td>Northeast</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>White</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Less than H.S.</td>
<td></td>
<td>35.5</td>
<td>27.5</td>
</tr>
<tr>
<td>H.S. Graduate</td>
<td></td>
<td>16.7</td>
<td>13.4</td>
</tr>
<tr>
<td>Some College</td>
<td></td>
<td>10.2</td>
<td>8.6</td>
</tr>
<tr>
<td>College Graduate</td>
<td></td>
<td>6.0</td>
<td>4.7</td>
</tr>
<tr>
<td>Black</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Less than H.S.</td>
<td></td>
<td>44.3</td>
<td>32.5</td>
</tr>
<tr>
<td>H.S. Graduate</td>
<td></td>
<td>25.8</td>
<td>26.3</td>
</tr>
<tr>
<td>Some College</td>
<td></td>
<td>15.4</td>
<td>13.0</td>
</tr>
<tr>
<td>College Graduate</td>
<td></td>
<td>14.7</td>
<td></td>
</tr>
</tbody>
</table>


133. Rosenbaum & Popkin, supra note 131, at 353-54.

134. Kasarda reports the following data on unemployment:
3. Income Levels

As noted, African-American workers have not only continued to face higher unemployment rates, but those with steady jobs have continued to receive salaries that are, on average, notably below those paid to white employees. Researchers observe that wage differentials between

<table>
<thead>
<tr>
<th>Midwest</th>
<th>White</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Less than H.S.</td>
<td>38.9</td>
<td>24.7</td>
</tr>
<tr>
<td></td>
<td>H.S. Graduate</td>
<td>21.7</td>
<td>14.1</td>
</tr>
<tr>
<td></td>
<td>Some College</td>
<td>16.6</td>
<td>9.3</td>
</tr>
<tr>
<td></td>
<td>College Graduate</td>
<td>5.3</td>
<td>5.7</td>
</tr>
<tr>
<td>Black</td>
<td>Less than H.S.</td>
<td>58.0</td>
<td>30.5</td>
</tr>
<tr>
<td></td>
<td>H.S. Graduate</td>
<td>36.4</td>
<td>24.7</td>
</tr>
<tr>
<td></td>
<td>Some College</td>
<td>27.3</td>
<td>12.2</td>
</tr>
<tr>
<td></td>
<td>College Graduate</td>
<td>10.4</td>
<td></td>
</tr>
</tbody>
</table>


Recent studies employing the "audit methodology"—sending "testers" of similar qualifications, but different racial backgrounds, to apply for the same job openings—have revealed substantial racial discrimination against blacks who seek entry positions in the Chicago and Washington, D.C. areas, especially for higher level jobs. *See generally CLEAR AND CONVINCING EVIDENCE: MEASUREMENT OF DISCRIMINATION IN AMERICA* (Michael Fix & Raymond J. Struyk eds., 1992) [hereinafter CLEAR AND CONVINCING EVIDENCE] (containing 13 articles discussing auditing for discrimination).

135. Marta Tienda and Leif Jensen report the following average wage disparities as of 1984:

<table>
<thead>
<tr>
<th></th>
<th>Blacks</th>
<th>Mexicans</th>
<th>Puerto Ricans</th>
<th>Non-Hispanic Whites</th>
</tr>
</thead>
<tbody>
<tr>
<td>1969</td>
<td>18,458</td>
<td>20,419</td>
<td>17,021</td>
<td>29,888</td>
</tr>
<tr>
<td>1979</td>
<td>19,219</td>
<td>21,912</td>
<td>16,099</td>
<td>29,534</td>
</tr>
<tr>
<td>1984</td>
<td>16,680</td>
<td>20,073</td>
<td>14,120</td>
<td>27,296</td>
</tr>
</tbody>
</table>

Marta Tienda & Leif Jensen, *Poverty and Minorities: A Quarter-Century Profile of Color and Socioeconomic Disadvantage*, in DIVIDED OPPORTUNITIES, supra note 17, at 23, 34 tbl. 3.

Other recent data on average weekly earnings among full-time wage and salary workers during the economic expansion of the 1980s (although unadjusted for educational attainment and job qualifications) confirms the picture of significant wage differentials by race—and by gender as well.
black and white workers continued to widen during the late 1980s.\textsuperscript{136}

The Kerner Commission suggested in 1968 that wage disparities between white and black workers could be explained, in large part, by the limited range of jobs open to most urban African Americans: "[T]he concentration of male Negro employment at the lowest end of the occupational scale is greatly depressing the incomes of United States Negroes in general. In fact, this is the single most important source of poverty among Negroes. It is even more important than unemployment."\textsuperscript{137} Yet despite significant advances toward occupational parity since 1968, blacks have yet to achieve parity in wage levels.\textsuperscript{138}

\begin{tabular}{|c|c|c|c|}
\hline
\textbf{Type of Occupation} & \textbf{White} & \textbf{Nonwhite} \\
\hline
Professional, Technical, Managerial & 27 & 9 \\
Clerical and sales & 14 & 9 \\
Craftsmen and foremen & 20 & 12 \\
Operatives & 20 & 27 \\
Service Workers & 6 & 16 \\
Non-farm laborers & 6 & 20 \\
Farmers and farm workers & 7 & 8 \\
\hline
\end{tabular}

\textit{Id.} at 254.

\textsuperscript{136} According to Moss and Tilly:

Between 1973 and 1989, the earnings of young black males deteriorated relative to whites. The relative decline occurred within all educational groups and was most severe among college graduates and high school dropouts.

\textit{...}

Controlling for education does not substantially change the relative earnings decline for blacks. Blacks experienced declines in relative earnings in every education group.

\textsuperscript{137} The Commission reported the following disparities for the year 1966:

\begin{tabular}{|c|c|}
\hline
\textbf{Type of Occupation} & \textbf{1983} \\
\hline
Professional, Technical, Managerial & $387$ \\
Clerical and sales & $254$ \\
Craftsmen and foremen & $293$ \\
Operatives & $231$ \\
Service Workers & $234$ \\
Non-farm laborers & $254$ \\
Farmers and farm workers & $281$ \\
\hline
\end{tabular}

\textit{Id.} at 254.

\textsuperscript{138} Some respected scholars view the evidence more positively. In summarizing black economic gains achieved during the forty years since Gunnar Myrdal first issued his famous report in 1940, Smith and Welch write:

The changes over the last forty years were dramatic. Fully 20 percent of working
One interesting comparison looks at median household incomes among young, two-parent families where both spouses are working. Among those groups, black and white median household incomes converged by 1991. Indeed, in the average black two-parent family, aged 25-34 (where both parents worked) incomes were 84.1% of the median incomes for similar white families.\textsuperscript{139} In two-parent families, black working women had achieved 90.9% of the median weekly income of white women by 1989.\textsuperscript{140} It was among black men, even in two-parent families, that incomes trailed substantially, amounting to only 70.4% of white male incomes.\textsuperscript{141}

The contributors to this special issue doubtless will examine these and other data, assessing the extent to which residential segregation, employment discrimination, household composition, or other impersonal economic forces may have contributed to these racially disparate labor market patterns, which have persisted at every educational level, in good economic times and bad, throughout the past two decades.

C. Educational Changes: Narrowed Gaps in Attainment and Achievement, But a Stalemate on Desegregation

At the time the \textit{Kerner Commission Report} was released in 1968, most African Americans, North and South, attended public schools that were segregated by race. Although public school segregation had been

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\textsuperscript{139} \textit{Money Income 1991}, supra note 111, at 30-31. In 1991, the median annual income comparisons were $38,374 for white couples, compared to $32,268 for black couples. The median income for two-parent Hispanic families was only $26,074—67.9% of the median white income. \textit{Id.}

\textsuperscript{140} \textit{Statistical Abstract, supra} note 102, at 416 tbl. 679.

\textsuperscript{141} \textit{Id.}
declared unconstitutional in 1954,142 most school districts had not yet adopted effective desegregation plans by 1968.143 At that time, despite substantial improvement since the 1940s,144 black students lagged far behind whites on most educational measures: average years of school completed,145 percentage of students obtaining high school and/or college degrees,146 and average performance on national standardized achievement tests.147

Shortly before the Kerner Commission Report was issued in 1968, Professor James Coleman and his colleagues had published an influential study strongly suggesting that a child's academic success was determined chiefly by his or her socio-economic background, and that schools, therefore, could do relatively little to affect educational outcomes.148 The Coleman Report generated intense academic controversy;149 it also

143. "The proportion of black pupils in desegregated schools in the South rose from 2 percent in 1964 to 15 percent in 1966, to 18 percent in 1968, and reached 46 percent in 1973. The proportions in the North and West, where the financial sanctions [under the Civil Rights Act of 1964] were not invoked, were constant at 28-29 percent." COMMON DESTINY, supra note 18, at 75 (citation omitted).
144. The median average number of years of schooling completed by black males ages 25-29 nearly doubled between 1940 and 1970, from 6.5 years to nearly 12 years, while the median average among white males rose much less sharply, from 10.5 years in 1940 to over 12.5 years by 1970. Id. at 334, 335 fig. 7-3. The median gap between black and white females also converged toward parity during this same period. Black women ages 25-29 moved from an average of 7.5 years of schooling completed to nearly 12 years, while white women made less dramatic advances, from almost 11.0 years to 12.5 years. Id.
145. Id.
146. Just over 70% of whites of both sexes had completed high school in the mid-1960s; among blacks, high school completion rates were approximately 50%. Id. at 338.
Among white males, the college completion rate in 1970 was 20%; for white females, it was just under 15%. Among both black males and females, college completion rates were approximately 6%. Id. at 337 fig. 7-4.
147. Results for the academic year 1969-70 revealed substantial gaps between the educational performance of blacks and whites at all levels of schooling. Reading scores from the National Assessment of Educational Progress are summarized below:

<table>
<thead>
<tr>
<th>Correct Scores</th>
<th>(percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>White</td>
<td>Black</td>
</tr>
<tr>
<td>9-Year-Olds</td>
<td>66.4</td>
</tr>
<tr>
<td>13-Year-Olds</td>
<td>62.6</td>
</tr>
<tr>
<td>17-Year-Olds</td>
<td>71.2</td>
</tr>
</tbody>
</table>

Id. at 349 tbl. 7-1.
149. See, e.g., CHRISTOPHER JENCKS ET AL., INEQUALITY: A REASSESSMENT OF THE EFFECT OF FAMILY AND SCHOOLING IN AMERICA 16-17 (1972); ON EQUALITY OF EDUCATIONAL OPPORTUNITY passim (Frederick Mosteller & Daniel P. Moynihan eds., 1972). But see Ronald Edmonds et al., A Black Response to Christopher Jencks's Inequality and Certain
tended to dampen hopes among some educational reformers that black educational performance could be improved significantly, either through desegregation or through other educational programs directed at poor and minority school children.\textsuperscript{150}

Since 1968, contrary to those apprehensions, the black/white gap in academic achievement has narrowed significantly,\textsuperscript{151} as "levels of schooling and rates of return to schooling [among black schoolchildren] have converged toward those of whites."\textsuperscript{152} During this period, a large percentage of African-American children have begun to attend desegregated

\begin{table}[h]
\centering
\begin{tabular}{|c|c|c|c|c|c|c|c|}
\hline
 & \textbf{9-Year-Olds} & & \textbf{13-Year-Olds} & & \textbf{17-Year-Olds} & \\
 & \textbf{White} & \textbf{Black} & & \textbf{White} & \textbf{Black} & \\
\hline
1969-70 & 66.4 & 49.7 & & 62.6 & 45.4 & \\
1979-80 & 69.3 & 59.6 & & 62.6 & 49.6 & \\
1983-84 & 69.1 & 57.4 & & 64.4 & 52.4 & \\
\hline
Change, & +2.7 & +7.7 & +1.8 & +7.0 & +1.3 & +8.3 \\
1969-84 & & & & & & \\
\hline
\end{tabular}
\caption{Correct Scores (percent)}
\end{table}


150. "[T]he common wisdom of the mid-1970s," Nathan Glazer recalled, was "that schooling did not improve achievement, achievement did not improve economic circumstances." Nathan Glazer, \textit{Education and Training Programs and Poverty}, in \textit{Fighting Poverty}, supra note 8, at 152, 152. Glazer continued:

\textit{Equality of Educational Opportunity} had appeared in 1966, at a time of great ferment in programs addressed to poverty, but its impact on the academic community was expanded by the reanalyses of its data in Mosteller and Moynihan (1972). Also, Jencks\'s \textit{Inequality} appeared in 1972. While it would be unfair to summarize the message of these major works as "nothing worked," that is certainly how the message came across. . . . The narrower evaluations of specific programs available during the first decade after the War on Poverty confirmed the verdict: nothing that one did in education worked.

\textit{Id.} at 152-53.

151. During the years 1969 through 1984, the average performance of black children on national achievement tests improved more, at all grade levels, than did achievement among white children. Representative data on reading performance are as follows:

\begin{table}[h]
\centering
\begin{tabular}{|c|c|c|c|c|c|c|c|}
\hline
 & \textbf{9-Year-Olds} & & \textbf{13-Year-Olds} & & \textbf{17-Year-Olds} & \\
 & \textbf{White} & \textbf{Black} & & \textbf{White} & \textbf{Black} & \\
\hline
1969-70 & 66.4 & 49.7 & & 62.6 & 45.4 & \\
1979-80 & 69.3 & 59.6 & & 62.6 & 49.6 & \\
1983-84 & 69.1 & 57.4 & & 64.4 & 52.4 & \\
\hline
Change, & +2.7 & +7.7 & +1.8 & +7.0 & +1.3 & +8.3 \\
1969-84 & & & & & & \\
\hline
\end{tabular}
\caption{Correct Scores (percent)}
\end{table}

\textbf{COMMON DESTINY}, supra note 18, at 349 tbl. 7-1. The Jaynes Committee drew three conclusions from these and other relevant data:

First, school achievement scores of blacks have increased at a faster rate than those of whites. Second, despite gains by blacks, substantial gaps in school achievement remain. Third, among the youngest age group and birth cohort, there is evidence of a possible decline in black performance relative to that of whites. . . .

. . . .

The math and verbal SAT performance of blacks has also improved in absolute terms and relative to whites in the past several years. . . . Overall, the SAT results are consistent with other data. There is a fairly clear record of improving achievement test performance by blacks.

\textit{Id.} at 348, 350.

152. Robert D. Mare & Christopher Winship, \textit{Ethnic and Racial Patterns of Educational
public schools, especially in the Southern states. One principal ques-

Attainment and School Enrollment, in DIVIDED OPPORTUNITIES, supra note 17, at 173, 174. Mare and Winship found a sharply narrowing gap among younger blacks and whites by 1980:

EDUCATIONAL ATTAINMENT BY AGE AND SEX FOR SELECTED GROUPS 1980

<table>
<thead>
<tr>
<th>Age</th>
<th>Male Black</th>
<th>Male White</th>
<th>Female Black</th>
<th>Female White</th>
</tr>
</thead>
<tbody>
<tr>
<td>26-35</td>
<td>12.12</td>
<td>13.55</td>
<td>12.21</td>
<td>13.05</td>
</tr>
</tbody>
</table>

Id. at 184-85; see also COMMON DESTINY, supra note 18, at 335 fig. 7-3 (providing data evidencing narrowing of gap).

Rates of high school completion among white youth, according to the Jaynes Commission, climbed to just under 90% by 1980; for blacks, high school completion rates jumped from 50% in 1965 to nearly 80% in the early 1980s. Id. at 338.

Rates of college completion during this period climbed from 21% to over 25% among white males, and from 15% to 23% among white females. After increasing dramatically in the early 1970s, both black college enrollment and black completion rates languished and even declined during the mid-1970s, standing just above 11% for black females and over 10% for black males by 1980. Id. at 337 fig. 7-4.

153. According to Gary Orfield, the following percentages of black children attended desegregated schools during selected years between 1968 and 1986 in the 15 states with the largest black student populations:

PERCENTAGE OF BLACK STUDENTS IN SCHOOLS MORE THAN 50% WHITE, BY STATE

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>New York</td>
<td>518,014 (16.5)</td>
<td>32.31</td>
<td>23.26</td>
<td>19.2</td>
<td>-13.11</td>
</tr>
<tr>
<td>Texas</td>
<td>480,250 (14.4)</td>
<td>25.25</td>
<td>36.01</td>
<td>36.7</td>
<td>+11.45</td>
</tr>
<tr>
<td>California</td>
<td>453,780 (09.0)</td>
<td>22.49</td>
<td>24.67</td>
<td>23.4</td>
<td>+0.91</td>
</tr>
<tr>
<td>Georgia</td>
<td>451,541 (37.9)</td>
<td>14.03</td>
<td>39.89</td>
<td>40.7</td>
<td>+26.67</td>
</tr>
<tr>
<td>Florida</td>
<td>373,143 (23.7)</td>
<td>23.21</td>
<td>60.35</td>
<td>54.9</td>
<td>+31.69</td>
</tr>
<tr>
<td>Louisiana</td>
<td>324,414 (41.3)</td>
<td>08.89</td>
<td>34.21</td>
<td>38.4</td>
<td>+29.51</td>
</tr>
<tr>
<td>Michigan</td>
<td>321,642 (19.8)</td>
<td>20.60</td>
<td>18.14</td>
<td>23.3</td>
<td>+0.70</td>
</tr>
<tr>
<td>Illinois</td>
<td>320,326 (18.7)</td>
<td>18.62</td>
<td>20.55</td>
<td>16.8</td>
<td>+03.18</td>
</tr>
<tr>
<td>North Car.</td>
<td>301,456 (28.9)</td>
<td>28.31</td>
<td>64.04</td>
<td>62.5</td>
<td>+34.19</td>
</tr>
<tr>
<td>Miss.</td>
<td>299,387 (55.5)</td>
<td>06.71</td>
<td>23.56</td>
<td>19.7</td>
<td>+12.99</td>
</tr>
<tr>
<td>Alabama</td>
<td>279,845 (37.0)</td>
<td>08.29</td>
<td>44.28</td>
<td>36.2</td>
<td>+27.91</td>
</tr>
<tr>
<td>South Car.</td>
<td>249,363 (44.5)</td>
<td>14.19</td>
<td>40.12</td>
<td>40.0</td>
<td>+25.81</td>
</tr>
<tr>
<td>Ohio</td>
<td>240,095 (15.0)</td>
<td>27.74</td>
<td>41.14</td>
<td>32.4</td>
<td>+04.66</td>
</tr>
<tr>
<td>Virginia</td>
<td>235,879 (23.7)</td>
<td>26.90</td>
<td>42.27</td>
<td>50.5</td>
<td>+23.6</td>
</tr>
<tr>
<td>New Jersey</td>
<td>214,760 (17.4)</td>
<td>33.88</td>
<td>23.29</td>
<td>27.2</td>
<td>-06.68</td>
</tr>
</tbody>
</table>


The data reveal that Southern schools by 1986 had become more racially integrated than schools in any other region. Id. at 9. According to Orfield and colleagues, however, [t]here [are] clear signs . . . that the long-standing achievements in the South and in parts of the Border states [are] beginning to erode. This [is] particularly clear in the cases of Alabama and Mississippi which show major increases in segregation and have joined the list of the nation's most segregated states for black students. Other states, including Florida, are experiencing gradual declines in relatively high levels of
tion in 1993 is whether the significant gains in academic achievement among black schoolchildren have resulted from—or have merely coincided with—the increase in desegregated schooling during those years. Many researchers have concluded that desegregation substantially improves the educational achievement and the "life chances" of African-American children. Others, predictably, have disagreed.

A reliable answer is made less certain by several factors. As Robert Crain and Rita Mahard have stressed, much depends upon how school districts implement desegregation and on the factors that accompany it:

Desegregation sometimes results in better curricula or facilities; it often results in blacks having better trained or more cognitively skilled teachers; it is frequently accompanied by a major effort to upgrade the quality of education; and it almost always results in socioeconomic desegregation. When desegregation is accompanied by all of these factors, it should not be surprising that there are immediate achievement gains half to two-thirds of the time. This suggests that desegregation is sufficient but not necessary to obtain these gains, since there are other ways to achieve curriculum reform or better teaching if the political will is present.

In many officially desegregated schools, however, extensive racial isolation remains the rule at the classroom level.

 integration, declines that may well reflect the failure of many districts in those states to update their desegregation plans in the past fifteen years as vast demographic changes have occurred. The evidence of a significant increase in integration in Missouri, on the other hand, shows the potential value of large-scale city-suburban voluntary exchanges of the sort developed in the metropolitan St. Louis consent agreement in the mid-1980s.

*Id.* at 29.

154. See, e.g., Jomills H. Braddock II & James M. McPartland, Social-Psychological Processes That Perpetuate Racial Segregation: The Relationship Between School and Employment Desegregation, 19 J. BLACK STUD. 267, 284-87 (1989); Jomills H. Braddock II et al., A Long-Term View of School Desegregation: Some Recent Studies of Graduates as Adults, 66 PHI DELTA KAPPAN 259, 260-64 (1984); Robert L. Crain & Rita E. Mahard, Desegregation and Black Achievement: A Review of the Research, in School Desegregation: Lessons of the First Twenty-five Years, LAW & CONTEMP. PROBS., Summer 1978, at 17 passim; see also Christopher Jencks, *Comment, in Fighting Poverty*, supra note 8, at 173, 176 ("Such evidence as we have suggests that school desegregation has reduced the black-white [achievement] gap more than Title I [the federal compensatory education program].").


Moreover, compensatory educational programs, including preschool programs such as Head Start and educational services for poor children funded through the Title I/Chapter I Program of the Elementary and Secondary Act of 1965, have been implemented in both segregated and desegregated settings since 1968. This poses questions about the relative effects of desegregation versus other compensatory programs.

Whatever its educational value, school desegregation—a chief focus of black educational reform in 1968—has become, by 1993, little more than a theoretical issue in many urban school districts. Several Supreme Court decisions in the 1970s severely limited the legal authority of federal courts to issue school desegregation decrees across school district lines in non-Southern metropolitan areas. Given the high degree of


160. A number of studies have reported positive educational effects among children who participate in Head Start programs. See, e.g., Ruth Hubble McKey et al., The Impact of Head Start on Children, Families and Communities: Final Report of the Head Start Evaluation, Synthesis and Utilization Project 63-64 (1985) (summarizing the studies of Head Start’s impact on a child’s cognitive development); Edward Zigler, Assessing Head Start at 20: An Invited Commentary, 55 AM. J. ORTHOPSYCHIATRY 603, 603 (1985) (stating that Head Start deserves “credit for the part [it] plays as a national laboratory for early childhood intervention”). Nonetheless, there is dispute about whether Head Start leads to permanent improvement in achievement test scores or whether its effects are limited to maintenance of grade level and avoidance of placement in special education classes. See Richard B. Darlington et al., Preschool Programs and Later School Competence of Children of Low Income Families, 208 SCIENCE 202, 203-04 (1980); Glazer, supra note 150, at 157.

Some studies, moreover, have found positive educational gains from participation in Title I/Chapter I programs in earlier grades, but a declining impact as students progress to higher grades. Launor F. Carter, The Sustaining Effects Study of Compensatory and Elementary Education, EDUC. RESEARCHER, Aug.-Sept. 1984, at 4, 6-7; see, e.g., Thomas W. Fagan & Camilla A. Heid, Chapter I Program Improvement: Opportunity and Practice, 72 PHI DELTA KAPPAN 582, 584-85 (1991) (assessing the impact of efforts by federal, state, and local officials to improve Chapter I education). The wide variety of permitted local uses of these compensatory funds hinders any broad generalization about program effectiveness.

161. See Pasadena City Bd. of Educ. v. Spangler, 427 U.S. 424, 436 (1976) (holding that “[n]either school authorities nor district courts are constitutionally required to make year-by-year adjustments of the racial composition of student bodies once the affirmative duty to desegregate has been accomplished and racial discrimination through official action eliminated from the system”); Millican v. Bradley, 418 U.S. 717, 744-45 (1974) (holding that federal courts may not order interdistrict school desegregation without proof that school districts were drawn to further segregation, or “that there has been a constitutional violation within one district that produces a significant segregative effect in another district”); Keyes v. School Dist. No. 1, Denver, Colo., 413 U.S. 189, 203-05 (1972) (holding that the existence of metropolitan school segregation will not require affirmative judicial intervention, absent proof that the segregation is the product of intentional racial discrimination by state or local officials). Gary Orfield views the Millican decision as the effective end of national commitment to urban desegregation:
residential segregation that characterizes Northern and Western urban areas, the crucial educational issue for these systems has become how to educate a public school population that is disproportionately poor and overwhelmingly nonwhite.\textsuperscript{162} Although numerous experiments with a variety of new educational approaches are underway in 1993,\textsuperscript{163} no firm consensus has emerged on how best to address the needs of urban minority schoolchildren.

In confronting these educational trends, our Special Contributors face a formidable task: to assess the value of school desegregation and of "in-place" educational approaches, and to outline promising educational reforms for urban schoolchildren.

D. Health Care: Largely Separate and Still Unequal

The Kerner Commission reported in 1968 that "[t]he residents of the racial ghetto are significantly less healthy than most other Americans. They suffer from higher mortality rates, higher incidence of major diseases, and lower availability and utilization of medical services."\textsuperscript{164} Even outside "racial ghetto" neighborhoods, the health of African Americans in 1968 was, on average, far poorer than that of whites, whether

There has been no progress in school desegregation on a national level since the Supreme Court's decision in \textsuperscript{[Milliken]}, which created an overwhelming barrier to city-suburban desegregation in the largest cities. None of the cities covered by the Kerner Report have succeeded in winning such a plan. The two that sued their suburbs and carried out a comprehensive legal battle, St. Louis and Milwaukee, both ended up signing settlements with suburban districts in the 1980s that permitted a substantial number of blacks to transfer to the suburbs but left many segregated black schools behind. The Supreme Court's Detroit decision, together with the almost total failure of state and national leadership on the issue, has left the country without tools to deal with the vast disparity between minority central-city school districts and schools in white suburbs.


162. See generally \textit{COLOR LINE}, supra note 18, at 205-07 (discussing the implications for educational policy of recent demographic changes in central cities and charting changes in enrollment and racial segregation).


measured by infant mortality rates, 165 life expectancy rates, 166 or effective access to medical services. 167

Twenty-five years later, despite generally improving health care for all Americans, racial disparities in health care persist widely. 168 While infant mortality among black infants has dropped sharply in absolute terms, black infants remain over twice as likely as whites to die within the first year of life. 169 Likewise, although life expectancies have improved significantly, for both blacks and whites, average black life expectancy is still five to seven years shorter than that of whites. 170

During this period, African-American efforts to achieve better access to health care have been a mixed tale of success and failure. 171 The dramatic expansion of the Medicaid program has brought medical care

165. The Commission reported that the white infant mortality rate in 1965 was 21.5 per 1000 live births; for nonwhites, the rate was 40.3 per 1000 live births. Id. at 270.
166. In 1965, whites over the age of 25 had an average life expectancy of 73.6 years, while nonwhites had an average life expectancy of only 68.3 years. This disparity, the Commission reported, had widened between 1960 and 1965. Id. at 270-71.
167. The poorer health of African Americans could be explained, in part, by the fact that “Negroes with incomes similar to those of whites spend less on medical services and visit medical specialists less often,” id. at 271, a fact linked to the difficulty experienced by African Americans in obtaining access to doctors and medical facilities. This inaccessibility was due both to the “geographic concentration of doctors in higher income areas in large cities and . . . discrimination against Negroes by doctors and hospitals.” Id. at 272.
169. Between 1960 and 1988, the white infant mortality rate declined from 22.9 deaths per 1000 live births to 11.0 deaths; among blacks, infant mortality fell from 44.3 deaths to 21.4 deaths. STATISTICAL ABSTRACT, supra note 102, No. 111, at 77. While the nationwide infant mortality rate in 1982 was 11.5 deaths per thousand, in Washington, D.C. and Detroit—two cities with large minority populations—the rates were 21.2 and 21.8 per thousand respectively. Clay H. Wellborn, Central City Population Characteristics, CONG. RES. REV., Nov.-Dec. 1988, at 9, 9.
170. Average life expectancy at birth among white males in 1988 was 72.3 years; for white females, the average was 78.9 years. Among blacks, the 1988 figures for males and females were 64.9 years and 73.4 years, respectively. STATISTICAL ABSTRACT, supra note 102, No. 107, at 74.

For a detailed discussion of this phenomenon, see Kenneth G. Manton et al., Health Differentials Between Blacks and Whites: Recent Trends in Mortality and Morbidity, 65 MILBANK Q. 129, 137-95 (Supp. I 1987).
171. See generally COMMON DESTINY, supra note 18, at 393-428 (discussing health trends among African Americans); HEALTH CARE ISSUES IN BLACK AMERICA: POLICIES, PROBLEMS, AND PROSPECTS 3-56 (Woodrow Jones, Jr. & Mitchell F. Rice eds., 1987) (presenting an overview of “Black Health Care and Health Status”).
to millions of low-income blacks, and the Medicare program similarly has had a positive effect upon the elderly black population.172 Nonetheless, Medicaid eligibility varies widely from state to state, and, as of 1984, 22% of all African Americans had neither private health care insurance nor access to Medicaid coverage.173 Moreover, many hospitals and nursing homes have chosen to limit the number of Medicaid and Medicare patients they treat, with predictably adverse impact on black patients.174 Recent studies also suggest that many doctors provide inferior treatment to African-Americans for some medical conditions.175

Racial disparities in health care coverage have an important geographical dimension as well, with strongly adverse consequences for the urban, minority poor. While 15% of the nonelderly population lacked health insurance coverage in 1988, 34% of poor residents in urban areas

172. "Since 1970, Medicaid has provided health coverage for about one of every five blacks under age 65. Approximately one-third of all Medicaid beneficiaries are black, and Medicare's coverage of the elderly has assured minimum benefits for blacks aged 65 or older." COMMON DESTINY, supra note 18, at 430; see also Diane Rowland, Medicaid: Financing Care for Low-Income Americans 3-5 (Nov. 1991) (Conference Paper presented at "An African American Health Care Agenda: Strategies For Reforming an Unjust System," Johns Hopkins University, Oct. 31-Nov. 2, 1991) (discussing Medicaid's role in meeting the health needs of African Americans).

173. COMMON DESTINY, supra note 18, at 430; see also Stephen H. Long, Public versus Employment-related Health Insurance: Experience and Implications for Black and Nonblack Americans, 65 MILBANK Q. 200, 202-03 tbl. 1 (Supp. I 1987) (showing sources of health insurance, by race and age, and including percentages of uninsured). Other investigators have reported that the percentage of African Americans not covered by any public or private health insurance rose during the decade from 1977 through 1987. Pamela Farley Short et al., Health Insurance of Minorities in the United States, 1 J. HEALTH CARE POOR & UNDERSERVED 9 passim (1990).

174. See Geraldine Dallek, Health Care for America's Poor: Separate and Unequal, 20 CLEARINGHOUSE REV. 361, 365-71 (1986); Sidney D. Watson, Reinvigorating Title VI: Defending Health Care Discrimination—It Shouldn't Be So Easy, 58 FORDHAM L. REV. 939, 941-42 (1990) (citing Stan Dorn et al., Anti-Discrimination Provisions and Health Care Access: New Slants on Old Approaches, 20 CLEARINGHOUSE REV. 439, 441 (1986)); see also Linton v. Commissioner of Health & Env't, 779 F. Supp. 925, 934-35 (M.D. Tenn. 1990) (holding that Tennessee's limited bed certification policy, under which participating nursing homes could decline to accept Medicaid patients in a majority of their beds violated Title VI), aff'd, 923 F.2d 855 (6th Cir. 1991). See generally SUBCOMM. ON INTERGOV'TAL RELATIONS AND HUMAN RESOURCES, HOUSE COMM. ON GOV'T OPERATIONS, 99TH CONG., 2D SESS. 58 (Comm. Print 1986) (discussing potential Title VI violations, including segregation, both within and between health care facilities); JOAN STIEBER & SIDNEY M. WOLFE, 140 HOSPITALS NAMED FOR PATIENT DUMPING VIOLATIONS: A REPORT ON THE DEPARTMENT OF HEALTH AND HUMAN SERVICES' RECORD IN ENFORCING THE FEDERAL "PATIENT DUMPING" LAW (1991) (estimating that "dumping," or denying delivery of care to indigent or uninsured individuals, occurs 250,000 times each year in U.S. hospitals).

175. Council on Ethical & Judicial Affairs, Black-White Disparities in Health Care, 263 JAMA 2344, 2344 (1990) (stating that blacks are only one-half as likely as whites to receive angiography and one-third as likely to receive bypass surgery for anterior myocardial infarction, even taking severity of heart disease into account).
were uncovered. Even minority residents who could pay for health care found that urban health care providers were becoming increasingly scarce or overburdened for several reasons: overcrowding of public hospitals, clinic closures, and "runaway" hospitals that have eliminated or reduced medical services in central cities, and a shortage of physicians and dentists willing to practice medicine in urban, minority neighborhoods.

It will be the task of our contributors to assess the impact of race, geography, and economic status on the current health care crisis, and to


177. Sylvia Drew Ivie noted in 1980 that public hospitals are the primary providers of care for inner-city poor minorities. These facilities are grossly underfunded. A shrinking municipal tax base and the astronomical inflation in health care cost have left large urban public hospitals in financial crisis. Local governments have responded by cutbacks in dollars and full or partial closure of many public hospitals.


178. See, e.g., Institute of Medicine, Homelessness, Health, and Human Needs 92 (1988):

Under the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35), federal financial support both for community-based health and specialized maternal and child health care centers was substantially reduced. A number of localities closed or consolidated facilities. Many health centers, public and private, were forced to reduce their budgets and services.

179. See, e.g., Subcomm. on Health and the Env't, House Comm. on Energy and Commerce, H.R. Doc. No. 126, 97th Cong., 2d Sess. 530-44 (1982) (documenting a significant increase in the number of private hospitals that closed or relocated in 52 metropolitan areas, despite continuing need for medical services, and demonstrating a correlation between closures and the percentage of African Americans in the affected communities); Ivie, supra note 168, at 297-300; see also NAACP v. Medical Ctr., Inc., 657 F.2d 1322, 1338 (3d Cir. 1981) (upholding decision that the relocation of medical facilities from the inner city to the outlying suburbs did not violate federal civil rights laws); Bryan v. Koch, 627 F.2d 612, 620-21 (2d Cir. 1980) (holding that the closure of an inner-city hospital serving 98% minorities did not violate Title VI of the Civil Rights Act of 1964); Jackson v. Conway, 476 F. Supp. 896, 905 (E.D. Mo. 1979) (holding that closure of one city hospital and the consolidation of services at a second city hospital did not violate the Fifth or Fourteenth Amendments of the United States Constitution or federal civil rights legislation). See generally Watson, supra note 174, at 940 (stating that "[w]hile Title VI ended most blatant forms of health care discrimination, subtle barriers still prevent minorities from gaining full access to federally-funded hospitals and other health care facilities"); Note, Maintaining Health Care in the Inner City: Title VI and Hospital Relocations, 55 N.Y.U. L. Rev. 271, 273-79 (1980) (discussing "runaway" hospitals and the effects of relocation).

180. As one leading advocate for African-American health care has noted, "private physicians shun the practice of medicine in poor minority communities and, like hospitals, relocate as the proportion of minorities in an area increases. In the last few decades, ghettos and barriers have shown a steep decline in the number of physicians available to treat inner-city resi-
identify the most promising strategies to provide adequate health care for urban and minority populations during coming decades.

E. Housing in 1992: Scarce, Expensive, and Segregated

Chief among housing issues addressed by the Kerner Commission in 1968 was the issue of housing quality, primarily the prevalence of "sub-standard housing and general urban blight" in black residential areas.\textsuperscript{181} The Commission stressed that large percentages of urban nonwhites lived in "housing units classified as deteriorating, dilapidated, or lacking full plumbing in 1960."\textsuperscript{182} The Report also noted greater overcrowding among nonwhite units,\textsuperscript{183} and it offered evidence that a higher proportion of nonwhites paid at least 35\% of their incomes for housing in many cities.\textsuperscript{184} To remedy these deficiencies, the Commission proposed to increase housing production sharply for low-income citizens, with a target of six million new units in the 1968-1973 period, and to increase antidiscrimination activities to give urban minorities more housing options outside the central cities.\textsuperscript{185}

The ensuing twenty-five years have seen a broad deterioration in the housing plight of many low-income residents, especially minority residents. Several trends, however, are positive: housing quality arguably

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\begin{footnotes}
\item[181] \textsuperscript{181} KERNER COMM’N REPORT, supra note 15, at 467.
\item[182] \textsuperscript{182} Id. at 468.
\item[183] \textsuperscript{183} Id. at 470.
\item[184] \textsuperscript{184} Id. at 471. The Commission noted that African Americans experienced two different kinds of price discrimination. In some cities, they paid rents that, on average, were similar to those of whites, but obtained smaller, more deteriorated housing for their money. \textit{Id}. at 470-71. In other cities, they typically were required to pay more in rent to obtain similar housing, albeit in segregated neighborhoods. \textit{Id}. at 471.
\item[185] \textsuperscript{185} Id. at 474-75.
\end{footnotes}
has improved, and the percentage of poor renters receiving some form of housing assistance has grown substantially. Nonetheless, a shortage of housing has developed in many low-income housing markets, brought on by a combination of factors: (1) a sharp slowdown in the production of new federally-assisted housing during the 1980s; (2) the


187. William Apgar reports the following data:

According to the 1987 American Housing Survey, 4.3 million households resided in public housing or rental housing otherwise subsidized by federal, state or local governments. While growth in the number of subsidized households has slowed since the mid-1980s, the 1987 figure is up nearly 95 percent from the 2.2 million posted in 1974.

Much of the increase in housing assistance in the last 15 years has gone to aid households at the lowest end of the income distribution. Among the very poor (incomes less than 50 percent of the poverty threshold), 919,000 (or 34 percent) received housing assistance in 1987, compared with only 225,000 (or 17 percent) in 1974. Among poor renters with incomes between 50 percent and 100 percent of the poverty threshold, the increase was more modest, rising from 681,000 (or 23 percent) in 1974 to 1,370,000 (or 33 percent) in 1987.

Id. at 21-22.

Figures compiled for HUD tell a similar story. In 1989, there were 33,767,000 renter households nationwide, of which 41%, or 13,808,000, were income-eligible for federally assisted housing. Of those 13.8 million, 4,070,000 (or 29%) received some form of federal housing assistance from HUD; 9,738,000 households, or over 70%, did not. CONNIE H. CASEY, OFFICE OF POLICY DEV. & RESEARCH, U.S. DEP'T OF HOUS. & URBAN DEV., CHARACTERISTICS OF HUD-ASSISTED RENTERS AND THEIR UNITS IN 1989 21 tbl. 1 (1992) [hereinafter HUD-ASSISTED RENTERS]. According to Apgar, over 3.2 million households below the poverty line in 1990 received neither federal housing assistance nor income assistance. Apgar et al., supra note 186, at 22.

In addition to rental assistance, approximately one million low-income homeowners also received federal assistance, bringing the total number of low-income renters and homeowners assisted to 5.4 million in fiscal 1988. CONGRESSIONAL BUDGET OFFICE, CURRENT HOUSING PROBLEMS AND POSSIBLE FEDERAL RESPONSES 37 (1988).

188. The Center on Budget and Policy Priorities explained the shortage in stark numerical terms:

- In 1970, the number of low rent units was 9.7 million. This was approximately 2.4 million greater than the number of low income renter households [defined as households with incomes of $10,000 a year or less].
- Between 1970 and 1978, there was a slight decline in the number of low cost units and a modest increase in the number of low income renter households. Despite these changes, there were still 370,000 more low-cost units than low income households in 1978.
- By 1985, however, there were 3.7 million fewer low rent units than there were low income renter households—11.6 million renter households but just 7.9 million low rent units.


189. The number of newly constructed units added to the federally-assisted inventory never exceeded 10% of the annual total recommended by the Kerner Commission. In fact, the number of public housing units declined from 41,249 new units made available for occupancy
disappearance of approximately 3.3 million older, low-income rental units from the private market between 1974 and 1993;190 (3) the widespread gentrification, or upward "recycling" of former lower- and moderate-income dwellings, displacing thousands of low-income tenants;191 and (4) the accelerating loss of thousands of low-income units built with

during the average year between 1970 and 1979 to 7,181 public housing units started in 1988. MICHAEL A. STEGMAN, THE ROLE OF PUBLIC HOUSING IN A REVITALIZED NATIONAL HOUSING POLICY 9 (Mass. Inst. Tech. Housing Policy Project ed., 1988). In total, 412,490 new public housing units were developed in the 1970s; only 191,024, fewer than half that total, became available during the 1980s. Id.

Part of the explanation for the decline in federal production of public housing units stems from the shift, after 1974, from public housing projects toward construction programs funded by Section 8 of the Housing and Community Development Act of 1974. The HUD Section 8 program targeted federal funds to private developers who would build or refurbish existing, but dilapidated dwelling units and rent them to low-income households. During the 1980s, approximately 383,531 of these "Section 8" units were completed. MICHAEL A. STEGMAN, MORE HOUSING, MORE FAIRLY: REPORT OF THE TWENTIETH CENTURY FUND TASK FORCE ON AFFORDABLE HOUSING 26 tbl. 2 (1991).

An even greater part of the explanation for the decline in public housing stems from another major change in federal housing policy. During the Reagan years, HUD shifted from reliance on the construction (or rehabilitation) of additional federally-subsidized units—the principal housing strategy from 1937 through 1980—to the provision of HUD-financed certificates and "vouchers," redeemable as cash rental assistance in the private housing market. As the Congressional Budget Office reported in 1988:

The production-oriented approach in rental programs has been sharply curtailed in recent years in favor of the less costly Section 8 existing-housing and voucher programs. Between 1977 and 1982, commitments through programs for new construction and substantial rehabilitation ranged annually from 53 percent to 73 percent of the total; since then, however, they have made up one-third or less of all additional rental commitments.

CONGRESSIONAL BUDGET OFFICE, supra note 187, at 37. As Stegman has reported, "consistent with the [Reagan/Bush] administration's favoring of rental assistance over new construction programs, the number of subsidized housing starts per year dropped by more than 88%, from 175,000 [in 1979] to less than 21,000 [in 1989]." STEGMAN, MORE HOUSING, MORE FAIRLY, supra, at 25. Indeed, by 1989, 26% of all HUD-assisted units, or 1,060,000 households, were receiving, not subsidized housing units, but HUD certificates or vouchers. HUD-ASSISTED RENTERS, supra note 187, at 25 tbl. 3.

Critics have charged that this strategy is inherently unable to assist low-income renters in "tight" housing markets characterized by acute shortages where the fixed-limit certificates or vouchers do not generate any new construction and cannot bring renters to the rental levels set by the private housing market. See DAVID C. SCHWARTZ ET AL., A NEW HOUSING POLICY FOR AMERICA: RECAPTURING THE AMERICAN DREAM 57 (1988).

190. PHILLIP L. CLAY, AT RISK OF LOSS: THE ENDANGERED FUTURE OF LOW-INCOME RENTAL HOUSING RESOURCES 4 fig. 2.2 (1987).

191. See generally GENTRIFICATION OF THE CITY 178-200 (Neil Smith & Peter Williams eds., 1986) (describing gentrification in the United States generally and the impact of displacement on indigent individuals); Richard LeGates & Chester Hartman, Displacement, 15 CLEARINGHOUSE REV. 207, 211 (1981) (stating that "[t]he conclusions of our report are in almost total opposition to the HUD view that displacement is a small, common and continual phenomenon, which seldom presents major problems for displacees and is sometimes beneficial to them").
federal subsidies in the 1970s, which in the early 1990s began to be withdrawn by their owners from low-income use.192

Simultaneously, as low-income housing units have become more scarce, incomes among low-income and minority persons have stagnated or declined.193 Thus, by the mid-1980s low-income families, poorer in real-dollar terms than similar families had been in 1968, have found themselves scrambling for shelter in markets characterized by sharply diminished housing supply and sharply increased housing costs.194

The consequences have been dramatic: the emergence of a homeless population numbering in the hundreds of thousands in major cities,195 unlike anything experienced in the United States since the depths of the Great Depression.196 Homelessness, however, is only the most visible tip of the new housing crisis; an enormous number of poor families, espe-


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Edward B. Lazere et al., A Place to Call Home: The Low Income Housing Crisis Continues 5 fig. 1 (Ctr. on Budget & Policy Priorities ed., 1991). See generally Schwartz et al., supra note 189, at 3-64 (summarizing the combined deleterious effects of national housing trends in the 1980s on lower-income residents).

195. After evaluating data on homeless in the 1980s, Peter Rossi put forward the following estimates:

The firmest figures are those for the portion of the homeless housed nightly in emergency shelters, numbering about 100,000 in 1984. Depending on which estimate of the street-to-shelter ratio is chosen, the street homeless are at least equal in number to the shelter homeless and likely closer to double. Hence, based on available information and reasonable assumptions, the most believable national estimate is that at least 300,000 people are homeless each night in this country, and possibly as many as 400,000 to 500,000 if one accepts growth rates in the past few years of between 10% and 20%.


196. Rossi notes that

[although no definitive counts were made during the Great Depression, we can get some notion of the magnitude of homelessness from the activities of federal relief agencies: in 1933 the Federal Emergency Relief Administration (FERA) housed 125,000 people in its transient camps, and a 1934 survey of social agencies in seven hundred towns and cities estimated 200,000 homeless.]

Id. at 22.
cially African Americans and Hispanics, now pay unsustainable fractions of their incomes for rent. Overcrowding has also increased in many cities, as families struggle to avoid the streets, and "shelter children," the denizens of huge, warehouse-like facilities or dead-end welfare hotels, are now a common feature of many cities.

Moreover, the absolute number of households receiving some form of federal housing assistance grew between 1979 and 1987, as of 1987 more than 70% of all renters below the poverty line received no federal housing assistance at all, either through access to public housing or through federal housing subsidies. During the Reagan years, furthermore, federal appropriations for low-income housing suffered an 80% decline in budget authorization—the greatest decline endured by any major federal program. The impact of these housing trends has been especially severe among the black and Hispanic urban poor. One study noted that in 1985, "half of all poor Hispanic and black households spent more than 57 percent of their income for housing," and "37 percent of poor black households—or 1.1 million households—paid at least 70 per-

197. "Some 18 percent of all Black and Hispanic households paid at least 50 percent of their income for housing in 1989, compared with nine percent of all White households." LAZERE et al., supra note 194, at 62. These figures are down from 1985, when 22% of black households, 20% of Hispanic households, and 10% of white households paid at least 50% of their incomes for housing. LEONARD et al., supra note 188, at 50.

198. "In 1989, eight percent of poor households—or approximately one million poor households—lived in overcrowded quarters." LAZERE et al., supra note 194, at 24. Overcrowding is most common among poor renters, and most severe among Hispanics: 26% of poor Hispanic households are overcrowded, compared with 9% of poor black households and 4% of poor white households. Id.

199. See ALEX KOTLOWITZ, THERE ARE NO CHILDREN HERE: THE STORY OF TWO BOYS GROWING UP IN THE OTHER AMERICA (1991) (describing two young black children growing up in large, high-rise, public housing project); see also JONATHAN KOZOL, RACHEL AND HER CHILDREN: HOMELESS FAMILIES IN AMERICA (1988) (providing harrowing accounts of homeless families with children).

200. The total number of renter households receiving federal housing assistance grew from 2.7 million in 1979 to 4.3 million in 1988, representing a growth from 22% to 29% of eligible renter households that received federal housing assistance. LAZERE et al., supra note 194, at 24. Since the number of poor families increased substantially during the 1980s, however, a larger number of eligible households (5.5 million) received no federal assistance in 1987 than in 1979 (4.0 million). Id.

201. Id. at 21-22.

202. See John O. Calmore, To Make Wrong Right: The Necessary and Proper Aspirations of Fair Housing, in THE STATE OF BLACK AMERICA 1989, at 77, 83 (Janet Dewart ed., 1989) ("During the 1980s authorized funds for federal housing programs have plummeted almost 80 percent ... from the $30 billion authorized for fiscal year 1981 to the $7.17 and $7.3 billion authorized respectively for fiscal years 1988 and 1989.")) (citation omitted).

Between fiscal year 1977 and 1980, the United States Department of Housing and Urban Development made commitments to provide rental assistance to an average of 316,000 additional households per year. LEONARD et al., supra note 188, at 23. Between 1981 and 1988, the number of new commitments dropped from 316,000 to 82,000 per year. Id.
cent of their income for housing costs.\textsuperscript{203}

Beyond the problems of housing availability and affordability, continued racial discrimination remains a serious impediment even for urban African Americans who can afford to pay higher housing costs. As George Galster reported in 1977:

Despite 1968 federal civil rights law, housing discrimination clearly persisted in 1977, and was likely responsible for a significant portion of the extent and pattern of racial segregation observed in metropolitan areas where it was present. If, for example, housing discrimination were eliminated in SMSAs where it was present in both housing tenure markets, the results lead one to predict that . . . white exposure to blacks would increase by 45 percent, black exposure to whites would increase by 38 percent, and relative black centralization would decrease by 26 percent in these areas.\textsuperscript{204}

Subsequent analyses continue to show very high levels of residential segregation,\textsuperscript{205} and the available evidence indicates that a substantial percentage of this segregation is not the product of private choice or income disparities between whites and blacks, but rather of illegal discrimination against African-American buyers or renters,\textsuperscript{206} not only by sellers and landlords, but also by mortgage lenders and insurers.\textsuperscript{207}

\begin{flushright}
\textsuperscript{203} Edward B. Lazere \& Paul A. Leonard, The Crisis in Housing For the Poor: A Special Report on Hispanics and Blacks 1-2 (1989). Since some 35\% of all black households were poor in 1985, this extremely heavy housing burden was shared widely in the African-American community. Even taking into account both poor and nonpoor blacks, some 42\% of all black households paid at least 30\% of their income for housing. \textit{Id.} at 4. Among all white households, the comparable figure in 1985 was 27\%. \textit{Id.}


\textsuperscript{207} See generally George C. Galster, The Use of Testers in Investigating Mortgage Lending and Insurance Discrimination, in Clear and Convincing Evidence, supra note 134, passim (reviewing various studies that found apparent lending and/or credit discrimination through the use of “testers”); Ronald E. Wienk, Discrimination in Urban Credit Markets: What We
Discrimination has taken forms other than resistance to integration in the private sale and rental market. In many urban areas, the public housing stock often is comprised of large, aging, racially segregated “housing projects”\(^2\) that exemplify urban decay: dangerous, crime-ridden, squalid, and physically defaced.\(^3\) Critics have questioned sharply


\(^3\) See generally KOTLOWITZ, supra note 199, at 21-26 (describing the pathetic conditions at the Henry Horner Hanes public housing project in Chicago, Illinois). According to a recent, comprehensive study of HUD-assisted renters:

- Public housing units ... were located more frequently than other [federally] assisted units or income-eligible, unassisted renters near buildings vandalized or with their interiors exposed (9 percent), near buildings with bars on windows (11 percent), and in neighborhoods with trash, litter, or junk on streets or properties (32 percent).

HUD-Assisted Renters, supra note 187, at 18. The data that accompany the HUD report indicate some marked differences between central-city and suburban residents of federally assisted housing units. For example, 522,000 of 2,275,000 central-city units nationwide (23.9%)
both the original rationale and current viability of the older, large central-city projects and have urged the construction of far smaller and more spatially dispersed replacement units. Yet, when additional construction funds have been available, local housing authorities often have encountered fierce resistance to the siting of new housing projects outside traditional low-income and minority areas. Thus, very-low-income tenants of urban public and assisted housing find themselves tightly bottled in low-income, high-crime areas, unable to leave because of the absence of assisted housing options in the broader metropolitan areas in which they reside.

Our contributors, after assessing the current housing burdens faced by urban black families and urban dwellers generally, will recommend housing strategies for the coming decades. Are massive new construction programs feasible, given the enormous federal deficit? If so, what kinds of housing should be funded, and where should it be built? If large-scale new construction programs are infeasible, what kind of housing assistance should be afforded, and who will pay for it? What should be the future role of community-based housing development corporations and community development corporations, which have assumed such an important role during the past decade of federal neglect? If mobility is to be encouraged, is it feasible to expand the Gautreaux model to a na-

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211. See, e.g., United States v. City of Yonkers, 856 F.2d 444, 447-52 (2d Cir. 1989) (discussing contempt proceedings against the City of Yonkers and white city council members who refused to permit construction to go forward, despite federal court order, because of strong community opposition by white citizens), rev'd in part sub nom. Spallone v. United States, 493 U.S. 265 (1990); United States v. Yonkers Bd. of Educ., 837 F.2d 1181, 1191-93, 1218-22, 1236-37 (2d Cir. 1987) (upholding lower court findings of racial discrimination in prior public housing sitting decisions and approving order to plan construction of subsidized housing units in racially integrated neighborhoods), cert. denied, 486 U.S. 1055 (1988).

tional scale, and if so, what kinds of governmental support should be provided to suburban apartment-seekers? Should housing assistance be tied to a coherent urban economic development policy? If so, what should it be?

F. Welfare in 1993: Still a Morass

The Kerner Commission undertook a broad examination of public welfare issues in 1968, explaining that "[t]he burden of welfare—and the burden of the increases [in welfare recipient case rolls]—will fall principally on our central cities," and that "our present system of public assistance contributes materially to the tensions and social disorganization that have led to civil disorders. The failures of the system alienate the taxpayers who support it, the social workers who administer it, and the poor who depend on it."

The Commission identified several critical deficiencies in the welfare system in 1968: first, its exclusion from coverage of many who needed benefits; second, its provision of "assistance well below the minimum necessary for a decent level of existence"; and third, its "restrictions that encourage continued dependency on welfare and undermine self-respect."

The Report observed that, under America’s piecemeal approach to income assistance, only about a third of the 21.7 million nonelderly poor in 1966 received some form of major public welfare assistance; most of those recipients were children and mothers covered by the Aid to Families with Dependent Children (AFDC) program. State AFDC programs in 1968 typically excluded two-parent families, regardless of whether those families had incomes below the poverty line. Moreover, the total federal aid provided under the AFDC program was only two billion dollars a year, or about $36 per month for each recipient. AFDC payments were subject to wide state-by-state variations, from an average of $9.30 per month in Mississippi to $62.55 in New York. Finally, the Commission pointed to a number of harsh regulations adopted by most state programs—including a requirement of a year’s residence prior to welfare eligibility, a deduction in welfare payments for any amounts

213. For a discussion of the Gautreaux experiment, see supra notes 131-32 and accompanying text.
214. KERNER COMM’N REPORT, supra note 15, at 458.
215. Id. at 457.
216. Id.
218. KERNER COMM’N REPORT, supra note 15, at 458.
earned by welfare recipients, and the precondition that at least one parent be absent from the home (the so-called "absent father rule")—all of which tended to demean welfare recipients in their own, and the public’s, eyes.\textsuperscript{219}

To address these deficiencies, the Commission proposed a variety of responses, including: (1) a commitment by the federal government to provide "more adequate levels of assistance on the basis of uniform national standards";\textsuperscript{220} (2) the extension of welfare payments to a far broader range of potential recipients—at a minimum, two-parent families with children;\textsuperscript{221} and (3) the development of job training, day care centers, and other programs to enhance the self-reliance of welfare recipients.\textsuperscript{222}

The subsequent history of welfare policy is complex, since the nation has not adopted the Kerner Commission’s recommendation to nationalize AFDC standards, and thus wide variations in state benefit levels and a welter of overlapping programs remain. Nonetheless, some overall trends are discernable. Between the mid-1960s and early 1970s there was an increase in the nation’s AFDC population from 3.1 million recipients in 1960 to 10.8 million by 1974; one commentator described the increase as an “explosion.”\textsuperscript{223} By the mid-1980s, this increase had prompted some to contend that AFDC was contributing to the perpetuation of a new welfare class, especially among the minority poor, who were being seriously deterred from entering the labor market by the receipt of welfare assistance.\textsuperscript{224} Yet, the number of persons receiving AFDC payments remained virtually constant after 1975; indeed, the number actually declined slightly between 1975 and 1989.\textsuperscript{225} Moreover, the earlier expansion in AFDC caseloads was not accompanied by a similar increase in benefits:

\textit{[S]pending on cash assistance programs has gone through several distinct phases . . . . From 1960 to 1973 there was a quintupling of federal, state, and local spending on AFDC, as average benefit levels rose and participation in the program mounted.}

\textsuperscript{219. Id. at 459-60.}
\textsuperscript{220. Id. at 461-63.}
\textsuperscript{221. Id. at 462-63.}
\textsuperscript{222. Id. at 463-64.}
\textsuperscript{223. PATTERSON, supra note 3, at 171.}
\textsuperscript{225. The total number of AFDC recipients declined from 11,404,000 in 1975 to 11,183,000 in 1989. STATISTICAL ABSTRACT, supra note 102, No. 612, at 372.}
Real spending on AFDC rose again in 1975 and 1976 in response to the severe 1974-75 recession. But since 1976 AFDC outlays have fallen substantially. In the eight years after 1976 real outlays declined by 20 percent, as nominal benefit levels failed to keep pace with the rate of inflation and, more recently, as eligibility limits were tightened.  

Thus while total AFDC payments, measured in absolute dollar terms, have increased substantially, the per capita increases have been far less significant. When adjusted for inflation, the maximum AFDC benefit for a family of three with no other income actually declined 42% between 1970 and 1991, and the average AFDC family of three received an income no more than 42% of the poverty line.

Of course, since the mid-1960s a number of important noncash programs have been created or expanded to help low-income recipients, including the Food Stamp program, the Medicaid program discussed earlier, nutritional programs such as the School Lunch Program, and the supplemental food program for women, infants, and children (WIC). There is debate on the net impact of these newer programs on the poor, and on whether the traditional calculations of the poverty line, which exclude these noncash benefits, provide an accurate indicator of

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226. Gary Burtless, Public Spending for the Poor: Trends, Prospects, and Economic Limits, in Fighting Poverty, supra note 8, at 18, 21 (citations omitted).


228. Average monthly AFDC payments, unadjusted for inflation, increased by an average of just over $10 per year during the 15 years from 1975 through 1989, rising from $229 to $383. Id. No. 612, at 372.

229. Center on Budget & Policy Priorities, supra note 193, at 8.

230. Federal dollars spent on Food Stamps rose from $550 million in 1970 to $11.68 billion in 1989. Statistical Abstract, supra note 102, No. 610, at 370. Expenditures on the school lunch program have risen from $300 million to $3 billion between 1970 and 1989; on the school breakfast program, from $11 million to $512 million; and on the WIC program from $603 million to $1.55 billion between 1980 and 1989. Id.


232. Compare supra note 172 and accompanying text (noting the overall increase in Medicaid availability to low-income blacks) with supra notes 173-75 and accompanying text (acknowledging that, despite the increase in Medicaid availability, a significant percentage of the black population is still without health care coverage of any sort).


the actual plight of poor persons who receive such benefits.\textsuperscript{236}

The most recent federal response to the "welfare problem" has been the Family Support Act of 1988.\textsuperscript{237} This legislation was ostensibly designed to encourage AFDC recipients to obtain education or job training, and then to become economically self-sufficient by entering the job market.\textsuperscript{238} The actual impact of the Act, however, is not yet clear, although some of its basic assumptions are subject to serious question.\textsuperscript{239}

\begin{flushright}
\textbf{PATRICIA RUGGLES, DRAWING THE LINE 139-46 (1990)} (arguing that even though inclusion of noncash benefits will lower poverty rates at any given time, the inclusion of these benefits will not cause alterations in the long-term trends of poverty rates); Mollie Orshansky, \textit{Counting the Poor: Another Look at the Poverty Profile}, 28 Soc. Security Bull. 3, 3 (1965) (providing analysis of the poverty line, adjusting for variable family situations).
\end{flushright}

\textsuperscript{236} See, e.g., \textit{Measuring the Effect}, supra note 235, at vii-xxiv (discussing 15 alternative formulas for measuring income); Danziger & Weinberg, \textit{supra} note 118, at 8-11. Danziger and Weinberg note that the current poverty threshold measures used by the Office of Management and Budget are derived from measures developed by Mollie Orshansky in the early 1960s, based upon a calculation of "the income necessary to provide minimally decent levels of consumption." \textit{Id.} at 9.

The thresholds became linked with the food component of the Consumer Price Index in the late 1960s when OMB adopted the Orshansky measure as a government standard for determining poverty and tied it to the Consumer Price Index to account for inflation. \textit{Id.} Possible future alterations to poverty measures include taking into account the impact of taxes, regional variations in income needs, and the receipt of non-cash and in-kind benefits (such as Food Stamps and subsidized housing assistance) that presently are not considered. \textit{Id.} at 12-14.

Some have insisted that the percentage of households that are poor is currently overstated because of the omission of Food Stamps and other noncash benefits from the poverty calculation. \textit{See, e.g., U.S. Senate Statement, Data Collection and Poverty Level, reprinted in Measuring the Effect, supra note 235, app. G, at G1. Isaac Shapiro and Robert Greenstein note that the reduction in the inflation-adjusted value of AFDC benefits has been so great during the 1970-1991 period that "the average value of AFDC and food stamp benefits combined has now fallen to about the same level as the value of AFDC benefits alone in 1960, before the food stamp program was created." \textit{ISAAC SHAPIRO \\& ROBERT GREENSTEIN, SELECTIVE PROSPERITY: INCREASING INCOME DISPARITIES SINCE 1977, at 13 (1991).}


\textsuperscript{238} One Senator who led the legislative reform effort described its intentions as follows: Under the newly reformed welfare system, the presumption is that the family should and can be self-supporting. . . . [T]o the maximum extent that resources can be found, . . . aid will be coupled with the tools—education, training, child care and other services—needed to assure that dependence on public aid will be a temporary condition leading to restored self sufficiency. . . .

. . . [T]he major elements of [the Family Support] Act [of 1988] were all designed to serve the same overall purpose—a redirection of our welfare system in ways that would help recipients attain self-sufficiency.


\textsuperscript{239} \textit{See generally Timothy J. Casey, The Family Support Act of 1988: Molehill or Mountain, Retreat or Reform?, 23 CLEARINGHOUSE REV. 930, 931 (1989) ("The FSA's basic aim is to reduce sharply the number of families receiving AFDC, although the measures adopted
Moreover, some argue that the continuing policy emphasis on "welfare" and AFDC is misplaced, since most poor and minority families are not on AFDC, but instead are struggling in minimum-wage or part-time jobs that simply do not pay enough to lift them from poverty.240

One conclusion is clear: None of the three major recommendations of the Kerner Commission has yet been adopted. Millions of poor Americans remain ineligible for public assistance. There are no minimum national standards for AFDC recipients, and no state provides benefits that lift recipients above the poverty line. Most states withdraw Medicaid coverage and AFDC payments from AFDC recipients who enter the work force, perpetuating the financial disincentives to self-reliance that the Kerner Commission identified in 1968.

It falls to our contributors to assess the successes and failures of current public benefits programs, to chart their impact on the urban poor, especially African Americans, and to make proposals for the future.

G. Black Political Power: Major Political Gains, Formidable Practical Challenges

In no area has black progress during the past twenty-five years been more dramatic than in the attainment of urban political power. Aided in the South by passage of the Voting Rights Act of 1965241 and in the North and West by the changing demographics forecast by the Kerner Commission, African Americans have captured mayors' offices, school superintendents' offices, and other local power bases in dozens of major cities, including New York, Los Angeles, Chicago, Detroit, Philadelphia, Washington, Newark, Baltimore, Atlanta, Birmingham, New Orleans, and Denver.242

This greater political control by urban blacks has led to significant
gains in municipal employment for African Americans, "much in the same way earlier ethnic groups, such as the Irish, took advantage of the benefits of office."243 Improved employment opportunities for urban blacks has not been limited to the law enforcement sector. For example, by 1987, 43% of all employees of the City of Cleveland were black, as were 47% of all employees of the Greater Cleveland Regional Transit Authority, 73% of all employees of the Cuyahoga Metropolitan Housing Authority, and 52% of the more than 10,000 people employed by the Cleveland Board of Education.244 Such numbers were unheard of twenty years ago when, according to Norman Krumholz, "none of these agencies even had an affirmative action plan."245

Yet black political power, by and large, has not led to other major economic or social gains for the minority poor in these cities. Professor Gary Orfield and Carole Ashkinaze recently have offered a comprehensive look at Atlanta, Georgia, where two decades of exuberant metropolitan job growth and black political leadership might have been expected to bring dramatic improvement to Atlanta's minority poor. Instead, Orfield and Ashkinaze report, the continued geographic segregation of Atlanta—a black central city surrounded by white suburbs, and by separate and unequal black suburbs—has led to the development and expansion of a "dual market," in which most of the good jobs, the good schools, and the better neighborhoods continue to be reserved for suburban whites, with Atlanta's inner-city, predominantly black population left farther and farther behind.246

Orfield and Ashkinaze attribute these failures in part to inaction by Atlanta's black political leaders:

Local observers describe[ ] a kind of celebratory politics, where black middle-class leaders took the evidence of their own success as proof of progress and many low-income blacks accepted that [success] as proof of the possibilities within the system . . . . The Atlanta style may be typical of the actual experience of blacks governing cities, as one black scholar wrote in 1990: "... these governments ... have generally pursued policies of fiscal conservatism and downtown development, coupled with policies and programs of minority appointments and employment, contracts to minority businesses, and efforts to restrain

243. Krumholz, supra note 109, at 28. In 1967, for example, 7.4% of Cleveland's police force was black, compared to 28.1% in 1990. The comparable gains for African Americans in Detroit are 5.2% to 53.7%; for Newark, 9.8% to 47.1%; and for Oakland, 4.1% to 45.6%. THE URBAN INSTITUTE, CONFRONTING THE NATION’S URBAN CRISIS 9 tbl. 1 (1992).

244. Krumholz, supra note 109, at 28-29.

245. Id. at 29.

246. ORFIELD & ASHKINAZE, supra note 113, at 17-23.
police misconduct in minority communities.\textsuperscript{247}

Yet Orfield and Ashkinaze are quick to observe that city officials in Atlanta and elsewhere typically lack real power to address many of the root problems that afflict the urban poor:

Local government is not nearly so powerful as state government, federal government, or the private sector in affecting broad social, economic, and educational problems. Local government controls limited resources and struggles every year to maintain existing staff and services. Cutting city budgets means cutting into the black middle class since city government tends to hire much larger proportions of blacks than other large employers. Much of the discretionary money that used to fund new programs came from federal grants that fell sharply in the 1980s. Some critical programs, such as job training, were turned over to state government. Many of the programs cannot be solved, at any rate, within the boundaries of a single local government.

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The institutions and policies that most directly affect the mobility of young blacks are almost all outside the control of city leaders. City governments have no control of the suburbs, where most of the jobs are being created and almost all of the new housing is developed. The best opportunities for pre-college education are suburban. Educational funding, welfare policy, higher education, job training, and many other critical issues are decided largely at the state and federal levels, where suburban power is growing and city influence is shrinking as population disperses.\textsuperscript{248}

Our contributors doubtless will enter this critical debate, asking whether American municipalities, many of them now under African-American leadership, have sufficient statutory authority, financial resources, and political will to make the changes needed by the urban minority poor.

\textsuperscript{247} Id. at 49-50 (quoting Robert C. Smith, \textit{Recent Elections and Black Politics: The Maturity or Death of Black Politics?}, 23 POL. SCI. & POL. 160, 161 (1990)).

\textsuperscript{248} Id. at 24-25. Georgia A. Persons has observed:
The important thing to remember is that the plight of black-mayor cities and their citizenry is tied to larger economic forces over which African Americans simply have no control. This is a profound economic reality that frequently drives the political path pursued by black mayors; and that path may offer only minimal, if any benefits to the African-American community. Indeed, the demands of governing are frequently very conflicting ones and frequently black mayors in their governing roles actually serve to reinforce the prevailing economic and social order that they were expected to aid in changing.

Persons, \textit{supra} note 242, at 183.
H. American Cities: Still Central?

David Rusk, former mayor of Albuquerque, New Mexico, recently has argued that the vitality of American cities is directly correlated with their degree of economic and racial desegregation:

The "urban problem" at heart is the product of segregation—racial, ethnic, economic—not the result of inadequate overall resources and opportunities. . . . The crucial determinants are not overall growth or percentage of minorities but measures of disparity.

. . . .

In [the booming] metro areas county governments tend to be the dominant local government, providing many public services and often controlling crucial development decisions. Many such areas also have very large, even county-wide, school systems.

. . . .

[T]he underlying dynamic is the same: these metro areas have avoided segregation by race and economic class better than others.249

Rusk offers statistics comparing the performance of 346 "growing cities," 71 "stagnant cities," and 101 "declining cities."250 On average, Rusk notes that growing cities incorporated outlying areas, and grew in total area by 272% between 1960 and 1990, with an average 1990 size of sixty-three square miles, while declining cities (which had, on average, been 50% larger than growing cities in 1960) grew by only 16%, within an average size of thirty square miles in 1990.251 Indicia of segregation in housing and public education were significantly lower in Rusk's growing cities, with fewer local school districts and municipalities in each metropolitan area, while metropolitan areas in declining cities were far more politically balkanized.252 The implication is that in metropolitan areas where governmental services are widely shared, residential segregation declines. Rusk concludes that

an effective urban policy must attempt more than to prop up


250. David Rusk, Data Prepared for Meeting of the Committee on Economic Development, Washington, D.C. (Sept. 10, 1993) (on file with the author). Growing cities are defined as those that experienced a population growth rate greater than 10% between 1960 and 1990; stagnant cities grew 0 to 10%; declining cities lost 0 to 10%. Id.

251. Id.

252. For example, the growing cities averaged 25 local governments and 14 local school districts in 1987; the declining cities averaged 35 school districts and 78 local governments. Id.
decaying inner cities; it must address city and suburb together. It must be broad and visionary: directed toward integrating city and suburban economies (including tax bases), infrastructure, and educational systems as strategies for integrating communities.253

Our contributors will address this proposed remedy and others that might affect the future economic viability of America's urban areas—areas plagued by declining industrial bases, mounting costs for social services and other municipal functions, and shrinking tax bases as better-paid workers depart for the suburbs.

III. CONCLUSION

Because of structural changes in the national economy that have contributed to the growth of an "urban underclass,"254 and the continuing deficiencies in urban educational, health care, housing, and welfare systems, it is tempting to conclude that most African Americans and all cities are worse off today than they were when the urban riots broke out in the late 1960s. Although conditions have worsened demonstrably for poor African Americans living in drug-plagued inner-city communities, there is some evidence that the conditions in which a substantial minority of blacks "live and work have improved in the last thirty years."255 Nor is all of the nation's poverty in urban areas. In 1989, while 41% of all poor households lived in central cities, 30% of the poor lived in the suburbs, and 29% lived in nonmetropolitan areas.256

Yet the most striking fact about American poverty twenty-five years after the Kerner Commission Report is its intensifying concentration within the nation's major cities. Douglas Massey has developed the term "hypersegregation"257 to underline the multi-dimensional urban trap in

253. Rusk, supra note 249, at 17.

254. William Julius Wilson has chided liberal academics for their reluctance to employ the term "underclass" which, Wilson suggests, is symptomatic of a broader reluctance to recognize and address the "heterogeneous grouping of inner-city families and individuals whose behavior contrasts sharply with that of mainstream America." TRULY DISADVANTAGED, supra note 18, at 7; see also Erol Ricketts, The Nature and Dimensions of the Underclass, in BLACK AND WHITE, supra note 18, at 30, 39-53 (evaluating various attempts to define and measure the contemporary urban "underclass").

255. SMITH & WELCH, supra note 138.

256. F. JOHN DEVANEY, HOUSING IN AMERICA: 1989/90, U.S. BUREAU OF THE CENSUS 12, 30 (1992). While 51% of all families with severe housing deprivations lived in central cities in 1989, more than one-third (34%) lived in the suburbs and 15% lived in nonmetropolitan areas.

which the minority poor now find themselves. In a recent article, Massey explained:

In a racially segregated city, any increase in poverty is confined to a small number of minority neighborhoods; the greater the segregation, the smaller the number of neighborhoods absorbing the shock, and the more severe the resulting concentration of poverty. If class segregation is also imposed, then the additional poverty is not only restricted to minority neighborhoods, it is confined primarily to poor minority neighborhoods.\(^{258}\)

Massey's work illustrates how race and class isolation extend their collective misery beyond individual households. During virtually any economic downturn such concentration quickly multiplies individual economic misfortune, producing a community-wide economic and social depression:

Under conditions of high racial segregation, a rise in the black poverty rate produces a dramatic loss in potential demand in poor black neighborhoods, leading to the withdrawal, deterioration, and outright elimination of goods and services distributed through the market. Moreover, to the extent that public services are dependent on local tax revenues or user fees, they also disappear or suffer declines in quality.

Because segregation concentrates disadvantage, shifts in black poverty rates comparable with those observed during the 1970s have the power to transform the socioeconomic character of poor black neighborhoods very rapidly and dramatically, changing a low-income black community from a place where welfare-dependent, female-headed families are a minority to one where they are the norm, producing high rates of crime, property abandonment, mortality, and educational failure. All of these deleterious conditions occur through the joint effect of rising poverty and high levels of racial segregation. They can be produced at any time through a simple increase in black poverty rates under conditions prevailing in most large U.S. cities.\(^{259}\)

Massey adds that white citizens clearly benefit from such residentially segregated systems:

By confining blacks to a small number of segregated neighborhoods, whites insulate themselves from the higher rates of black poverty and the problems associated with it; and as segregation rises, the total income of white neighborhoods grows while that


\(^{259}\) Id. at 351.
of black neighborhoods falls, so that whites are in a better position to support hospitals, clinics, and other medical facilities.\textsuperscript{260}

Is Massey correct that class-based, economic policies designed to overcome African-American poverty, are doomed to inevitable failure unless they simultaneously challenge America's all-but-universal patterns of residential segregation?\textsuperscript{261} This perennial question, at the heart of the Kerner Commission's 1968 report, echoes in the important, ongoing debate reopened in the late 1980s by the writings of William Julius Wilson.\textsuperscript{262} It is surely the ultimate question for the Contributors to this special issue of the \textit{North Carolina Law Review}, and in the end, for the readers and the nation as well.

\textsuperscript{260} Id. at 353.
\textsuperscript{261} Id. at 354.
\textsuperscript{262} See ANTHONY DOWNS, \textit{OPENING UP THE SUBURBS passim} (1973) (presenting classic argument in favor of policies that affirmatively promote residential desegregation); Anthony Downs, \textit{Policy Directions Concerning Racial Discrimination in U.S. Housing Markets}, 3 \textit{Housing Pol'y Debate} 685, 739-43 (1992) (concluding reluctantly that, in view of continuing, widespread public resistance to desegregation policies, policy efforts should be directed toward reduction of illegal acts of discrimination in housing sales and rental markets). \textit{Compare} TRULY DISADVANTAGED, \textit{supra} note 18, at 140-64 (arguing for a "fundamental shift from the traditional race-specific approach" toward universal economic programs that draw support from a wider spectrum of American society) and Theda Skocpol, \textit{Targeting within Universalism: Politically Viable Policies to Combat Poverty in the United States}, in \textit{Urban Underclass, supra} note 106, at 411, 414 (same) \textit{with} George C. Galster, \textit{The Case for Racial Integration, in Black and White, supra} note 18, at 270, 270-82 (insisting that integration remains a crucial goal of urban policy) and Gary Orfield, \textit{Ghettoization and Its Alternatives, in The New Urban Reality} 161, 161-93 (Paul E. Peterson ed., 1985) (contending that residential integration is the only serious alternative to continued ghetto formation) and Robert Greenstein, \textit{Universal and Targeted Approaches to Relieving Poverty: An Alternative View}, in \textit{Urban Underclass, supra} note 106, at 437, 446-50 (arguing that carefully tailored, class-specific, if not race-specific, economic and social policies are politically viable).