

**Institute for Strategic Leadership and Learning**  
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**An Examination of the Roots of Contemporary Racial Residential Segregation**

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**December 2006**

## Introduction

Contemporary urban and suburban communities are characterized by ongoing, and in some instances increasing, racial and economic residential segregation<sup>1</sup>. In light of the fact that our society is becoming increasingly diverse, and that the “minority” population (e.g., Blacks, Latinos, Asians) will likely together constitute over 50 percent of the total population by the year 2050, it is particularly urgent that issues related to racial and economic segregation enter the public discourse. The ills stemming from a racially and economically segregated society are well documented; yet despite this looming threat to the stability of American society, there exists little real policy debate regarding racial and economic segregation. Xavier de Souza Briggs (2005) notes that “outside of a handful of progressive, self consciously integrated neighborhoods and small cities, racial segregation has, as a public concern receded into memory, the stuff of civil rights lore and the integrationist aims of a bygone era”(p. 6).

In this paper, I use an historical and inter-branch perspective to examine how actions and policies in four related policies areas—exclusionary zoning regulations, Fair Housing policy, school desegregation, and school funding—relate to racial and economic residential segregation. I borrow the concept of political and legal opportunity structures (Anderson, 2005) to explore potential hypotheses explaining continued residential segregation, and to inform the subsequent crafting of potential policy solutions in light of the current lack of a coherent policy framework promoting racial and economic integration. Our work is guided by a single essential question: If increased racial and economic integration is an overarching policy goal, then what strategic mix of policies and strategies are needed to achieve that goal?

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<sup>1</sup> The phrases/terms “racial and economic residential segregation”, “racial segregation” and “segregation” are used interchangeably throughout the text and refer to segregation in where people live and call their home. This is sometimes referred to as “spatial segregation”.

Section I provides an historical account of the policies and actions that influence residential segregation, including an overview of the social and psychological factors influencing housing decisions. Section II weaves the historical account into a policy map focusing on litigation across a range of related policy areas that have influenced racial and economic residential integration. Section III outlines potential strategies to achieve the goal of increased residential integration, focusing on crafting a locally and state-based mix of policy changes that together promote racial integration.

## Section I

The social costs of racial and economic residential segregation are numerous and impact most everyone, although poor Blacks and Latinos are clearly more affected than other segments of the population. Where you live—your home and surrounding community—impacts your access to high quality education, your exposure to crime and chance of going to prison, and your opportunity to secure decent paying jobs (Briggs, 2005; Orfield & Lee, 2006; Massey & Denton, 1993; Charles, 2003; Wilson, 1987). Despite the evident social costs stemming from racial segregation and a clear rationale to promote more integrated communities, our society remains highly segregated (Orfield & Lee, 2006; Ellen, 2000). Understanding why racial segregation continues<sup>2</sup> is necessary in devising strategies to reduce segregation, or at the very least to mitigate the ill effects of segregation (Briggs, 2004).

Housing discrimination is one of the primary means by which communities have excluded immigrant and minority populations from access to resources and services as stepping stones to a better life and upward social mobility (Briggs, 2005). However, the literature and research on

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<sup>2</sup> The literature and history related to the causes of racial segregation are well documented and important; however, the scope of this paper focuses on the contemporary factors related to racial segregation and potential solutions. Please Cite as: Lane, B. (2007). *An Examination of the Roots of Contemporary Racial Residential Segregation*. Providence, RI: INSTLL, LLC

racial integration and segregation covers a broad array of potential diagnoses and causes for racial segregation and housing discrimination is but one of a selection of causes (or a problem diagnoses) for pervasive residential racial segregation. Effective strategies to promote racial integration must account for social and cultural factors influencing segregation, and how these factors relate to tangible policies.

**Social and cultural explanations of racial segregation.** Individuals and families can freely choose where to live, presuming that they have the resources to move and ability to secure job(s) that will support their choice of residence. It follows that individuals can choose to self-segregate and live with others that share a culture or religion, have similar economic backgrounds, or identify with a particular ethnic group. In a perfect world, the willful creation of segregated communities might be acceptable, as long as each separate community had full access and opportunity to public goods and resources. However, as argued in *Brown v. Board of Education*, in a society (such as ours) that has long history of oppression, the use of separate but equal institutions and divisions in society is inherently discriminatory, in that the separation creates and fosters a sense of inferiority upon one group that is unacceptable and detrimental to the members of that group and to society as a whole.

The United States' history of racial oppression and lingering racist attitudes provide a context for a set of related problem diagnoses of racial residential segregation, some more benign than others. For instance, individuals may choose to segregate by income level, which would serve to extenuate racial segregation to the extent that income levels mirror racial classifications (Sethi & Somanathan, 2004)<sup>3</sup>. There is some evidence that blacks and whites may have different 'tastes' in the types of housing they prefer, which can lead to segregation (Adelman, 2005;

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<sup>3</sup> Sethi and Somanathan (2004) actually argue that a decrease in income disparity will not necessarily lead to decreased segregation.  
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Dawkins, 2004). There is strong evidence that racial prejudice continues to play a large part in residential segregation. The work of Charles (2003) and others have demonstrated that although some whites do have a preference for integrated neighborhoods, their threshold for moving (e.g., the percentage of blacks in a neighborhood in which they would move) is lower than that of blacks. In other words, whites demonstrate an overall reluctance to move into integrated neighborhoods, even though the overall comfort of whites with integrated neighborhoods has increased since the 1970's (Charles, 2003; Ihlandfeldt & Scafidi, 2004).

Ingrid Gould Ellen, in her book “Sharing America’s Neighborhoods: The Prospects for Stable Racial Integration”, argues that the tendency of whites to not move into mixed neighborhoods (e.g., white avoidance), irrespective of their reported increased comfort with such situations, can be best explained by “race-based neighborhood stereotyping”. In race-based neighborhood stereotyping, whites make housing decisions based on their perception of the current and future quality of a particular neighborhood – a purely empirical and race neutral perspective (Ellen, 2005). Through an analysis of survey data and housing patterns, Ellen (2005) found that whites were more likely to move into a mixed community when they were convinced that the mixed neighborhood would remain stable and that housing properties would not decline in value. In this context, whites are using race as a proxy for economic interests and as a measure of the overall health and safety provided in a given community. Ellen fully recognizes the morally suspect nature of race-based stereotyping, but cogently argues that understanding white avoidance as race-based stereotyping is a more accurate explanation of housing choice in contemporary society and leads to different, and perhaps more promising, policy solutions than would otherwise be available.

In a capitalistic society that values free and open choice, racial prejudice is quickly and easily institutionalized as formal and informal mechanisms intended to preserve the status quo. In the

context of racial residential segregation, discriminatory housing practices were<sup>4</sup> the central mechanism used to create and maintain segregation and resultant inequality. An analysis of the policies related to residential segregation begins with the events leading up to the passing of the Fair Housing Act of 1968.

**Policies impacting residential segregation – the inter-branch perspective.** In the 1950s and 1960s, a mix of social, legal and economic circumstances created a situation that was ripe for abuse and strife. In the post WWII era, African-Americans continued to migrate to northern urban cities. Industry located in and around cities provided job opportunities for blacks and whites, migrants and war veterans alike. Increased feasibility of transportation via automobile and road infrastructure improvements contributed to the rise of the suburbs, although there remained incentives to live near or in central cities (e.g., access to amenities and work). In the 1950s, cities tended to be segregated by neighborhood (Ellen, 2000). The enforcement of school desegregation orders in a number of northern urban cities in the 1960s and 70s created a racially motivated justification for whites to move out of urban centers to more secure and homogeneous neighborhoods, and advances in transportation and suburban development provided the means and access to do so. Race-based scare tactics, such as those used by “block-busters” to prompt whites to sell houses that could be then sold at a profit to blacks, extenuated segregation and racial biases (Ellen, 2000, p. 37).

In the mid-1950s through the 1960s, public housing complexes initially built to provide housing for returning war veterans were built and intentionally located in “poor minority neighborhoods that lacked access to transportation and jobs” (Popkin, et al., p. 8). By the mid-1960s, public housing projects were highly segregated, serving predominately low-income

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<sup>4</sup> Some would argue that housing discrimination continues to be the primary source of residential segregation. Please Cite as: Lane, B. (2007). *An Examination of the Roots of Contemporary Racial Residential Segregation*. Providence, RI: INSTLL, LLC

African-American women and children. This segregation and the visible human and social costs associated with concentrated and isolated poverty served as prime examples of the discriminatory and racially biased practices to be addressed by the Civil Rights movement, federal laws, and subsequent litigation.

The Civil Rights movement picked up steam in the late 1950s and 1960s, culminating with the passage of a set of laws (Civil Rights Act of 1964, Voting Rights Act of 1965, Fair Housing Act of 1968) that removed many of the overtly discriminatory legal and structural barriers to integration. Overall, the events of the 1960s and assassination of Martin Luther King Jr. provided a broad window of opportunity for advocates of the Civil Rights movement and racial integration to create the legal and policy structures needed to institutionalize many of the goals of the Civil Rights movement at large. Between 1968 and 1972, racial residential integration became an explicit policy goal, only to be removed from the public and political dialogue through a series of actions taken by President Nixon and a set of related Supreme Court decisions on policies related to the overall goal of racial integration.

The passage of the 1968 Fair Housing Act outlawed discrimination in the sale and renting of private housing and asserted that the federal government must take an assertive and affirmative role in ending segregation in public housing. The Fair Housing Act was passed in Congress during a time of heightened social and political awareness regarding racial relations, racial segregation and its implications. The Kerner Commission, formed by President Lyndon B. Johnson and charged with assessing the causes of the race riots and proposing potential solutions to racial tensions, released its report in 1968. The Commission's report argued for proactive measures to increase racial integration because "integration is the only course which explicitly seeks to achieve a single Nation rather than accepting the present movement toward a dual

society. This choice would enable us to at least to begin reversing the profoundly divisive trend already so evident in our metropolitan areas—before it becomes irreversible” (Denton, 1999 p. 108). The combination of increased racial tensions, the assassination of Martin Luther King Jr., and the Kerner Commission’s arguments for increased racial integration resulted in a shift in the political opportunity structure leading to the passing of the Fair Housing Act and an increased window of opportunity for proponents of racial integration. The Fair Housing Act was passed in the House of Representatives six days after the assassination of Martin Luther King Jr., although an amendment proposed by Senator Dirksen (the Dirksen Compromise) intended to gain the votes of Senate republicans effectively stripped the Act of meaningful enforcement mechanisms. (Denton, 1999).

Richard Nixon was elected President beginning in 1968 and, as a result, it was up to Nixon’s administration and Congress to continue efforts towards racial integration and provide HUD with the ability to fully implement and enforce the Fair Housing Act. The Nixon administration played a significant role in stifling efforts to promote the goals of the Fair Housing Act and related civil rights legislation (Lamb, 2005; Goering, 2005). During his administration, President Nixon consolidated and used his position as President to: (a) enforce a policy position that preserved the right of suburban communities to refuse public housing and related attempts at “forced integration” and (b) nominate and appoint Supreme Court justices (and lower court appointees) who would support this policy position (Lamb, 2005).

Under Nixon’s administration, George Romney was appointed head of the Department of Housing and Urban Development (HUD). Romney actively pursued using the Fair Housing Act and the regulatory and fiscal power of HUD to promote suburban residential integration (Lamb, 2005; Goering, 2005). Romney’s actions involved promoting and developing two related



initiatives: Operation Breakthrough and Open Communities. Operation Breakthrough was designed to promote extensive building of middle and low income housing within urban city limits. Operation Breakthrough was supported by the Nixon Administration, but ultimately was not fully implemented due to lack of external political support and reluctance from cities to relinquish control over public housing decisions (Lamb, 2005).

Open Communities, on the other hand, was a radical initiative developed without Nixon's knowledge or approval (Lamb, 2005, p. 69). Open Communities was designed to support and enforce the development of public housing complexes in suburban communities – known in some circles as “forced integration”. The specific goal of Open Communities was to spread public housing throughout metropolitan areas and to “...integrate the suburbs racially and economically” (p. 105). The initiative included specific strategies for addressing suburban zoning issues and referenda (e.g., by permitting the Attorney General or individuals to file suit if local zoning ordinances prohibited public housing) and by 1969 Romney had identified a set of potential sites to be included in the initial phase of the initiative (pp. 76-77, 83). Early in 1970, President Nixon was informed of the intentions of the Open Communities. Nixon's own aversion to racial integration as a policy goal, coupled with local communities' opposition to the integrationist agenda proposed by the initiative led to Nixon's removal of Romney from office and stoppage of the Open Communities initiative (Lamb, 2005). As a result, HUD's first attempt “to use its resources and rules proactively to promote housing integration” was stifled (Goering, p.130).

Partly as a means of addressing the political damage created by Romney's public communication of the Open Communities initiative, President Nixon issued a set of policy statements in 1970 through 1971 culminating in an official “Statement About Federal Policies

Relative to Equal Housing Opportunity” made on June 11, 1971. In this statement, President Nixon stated that “We will not seek to impose economic integration upon an existing local jurisdiction; at the same time, we will not countenance any use of economic measures as a subterfuge for racial discrimination<sup>5</sup>”. In effect, the Administration’s policy stated that federal funds were not be used to support or enforce economic integration or to promote forced suburban integration (Lamb, 2005). In 1973, Nixon issued a moratorium on the use of federal funds for the building of new public housing. According to Lamb, the moratorium “meant that no new public housing would be built in the suburbs as long as the freeze was in effect” (p. 157). Nixon’s housing policy and the moratorium slowed, if not completely halted, the movement for racial and economic integration in the suburbs.

## **Discussion**

This brief analysis of the political opportunity structure in the late 1960s to early 1970s illustrates that a rather broad window of opportunity to institute policies supporting racial residential opened in 1967 and 1968, but was subsequently closed with the election of President Nixon and his official policy statement against “forced integration”. Social events, such as the race riots and the death of Martin Luther King Jr. altered the configuration of the political opportunity structure and created space for pro-integrationist ideas and policies to flourish. However, the election of Nixon, his appointment of like-minded Supreme Court justices, and a growing suburban backlash quickly shifted the political opportunity structure.

HUD’s efforts to promote racial integration without the full support of the administration (and of local communities) illustrate the impact of the shifting political opportunity structure.

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<sup>5</sup> <http://www.presidency.ucsb.edu/ws/index.php?pid=3042>

Without a supportive political opportunity structure, the Open Communities initiative backfired and, in hindsight, may have led to a more forceful closing of the policy window than would have occurred if other strategies had been used. It can also be argued that the Fair Housing Act was impotent from the start, due to the Dirksen Compromise and the lack of enforcement mechanisms in the Act. In an assessment of the overall effect of the Fair Housing Act, Glaster (1999) contends that although the Act played a limited role in the elimination of discrimination and the development of integrated neighborhoods, it ultimately failed to reduce the extreme racial isolation faced by poor and minority families in urban settings (See also Carr, 1999). Similarly, Denton (1999) argues that the 20 years between 1968 and 1988 (when greater enforcement provisions were added to the Fair Housing Act) represent a time of “lost opportunity” for the Civil Rights movement and that substantial progress in racial residential integration might have been made if the 1968 Act included enforcement provisions (p. 111).

The Fair Housing Act is an important part of the landscape related to racial residential segregation, but it fails to capture the full story. During this same time period of 1967 through the early 1970s, a series of court decisions related to fair housing, exclusionary zoning, school desegregation, and school finance reform entered and altered the legal and political opportunity structures. It is interesting to note that shifts in the decisions in each of these policy areas mirror the Nixon Supreme Court appointees and the emergence of the Burger Court.

In Section II, I present a policy map that weaves together the policies and decisions just discussed with litigation in areas related to racial residential segregation. I also discuss the emergence of a second, and much smaller window of opportunity in the early 1990s and lessons to be learned from policies and strategies used during this time.

## Section II

Policy papers and analysis of litigation related to exclusionary zoning, school desegregation and school finance reform are plentiful. However, there is limited evidence that these three issues, with fair housing as the fourth, are considered in tandem as having a cumulative effect on contemporary racial and economic residential segregation. Examining the respective successes and failures of litigation in these areas, including the extent to which similar cases have been ruled differently based on the level of the court (federal or state) provide informative insights with respect to the crafting of future policy. A policy map, graphically displaying the relationships among different policy areas, including the temporal relationship across litigation and actions of the President and Congress, is presented as a guide to the analysis and discussion that follows.

### **The Policy Map**

The policy map, presented on the following page, describes actual and hypothetical linkages among a variety of policies, litigation, actions, and events. Black arrows represent an interaction between two elements (e.g., objects that represent a policy, court case or group of cases, or actions) that tends to support the goal of racial integration. White, or open arrows represent an interaction between elements that do not support the goal of racial integration. For instance, the Kerner Commission is linked to the passage of the 1968 Fair Housing Act with a black arrow. Likewise, a clear arrow is used to connect the circle designating Nixon's Supreme Court appointees with a set of court cases that allowed communities to develop exclusionary zoning regulations. Following the policy map is a chart that lists each relevant policy or court case, and the implication of the policy related to the goal of racial residential integration.

# Policy Map

## An Examination of Policies, Actions, and Events Related to Racial and Economic Residential Segregation

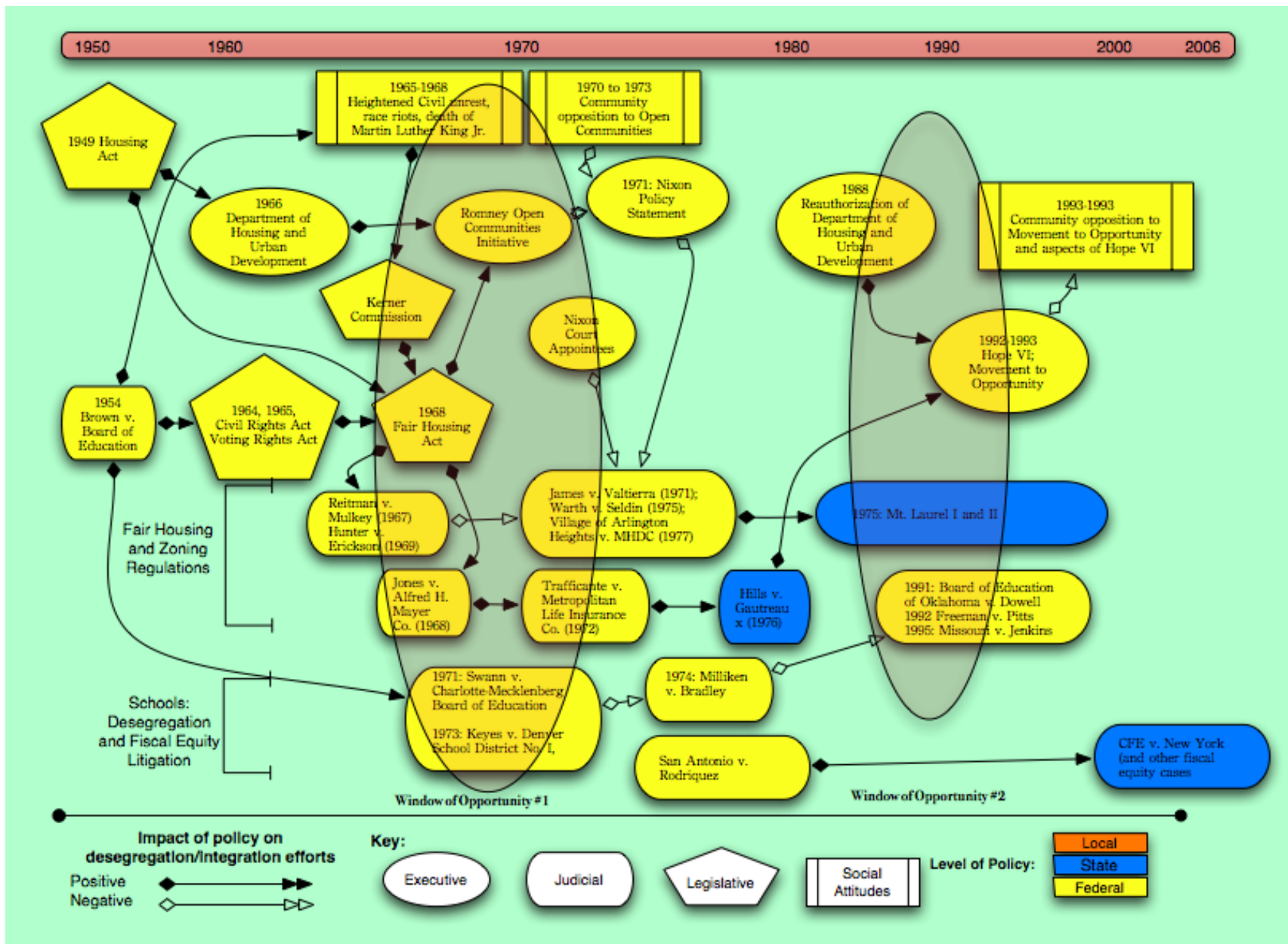


Table 1. Policies, Actions, and Events Related to Racial and Economic Residential Segregation

Year	Identifier	Ruling/Law/Outcome	Policy Intent and/or Implications
1954	Brown v. Board of Education	Ruled that racial segregation of public schools was illegal.	Provide legal standing for the desegregation of public schools.
1964 1965	Civil Rights Act Voting Rights Act	Outlawed discrimination in employment and education. Outlawed discrimination in voting.	Intent: To ensure fair access (without discrimination) to jobs, education, and voting.
1966	Department of Housing and Urban Development	Responsible for executing policy related to housing and urban development.	A cabinet level department of the government responsible for housing is formed.
1967	<i>Reitman v. Mulkey</i> (1967)  <i>Hunter v. Erickson</i> (1969)	In <i>Mulkey</i> , the Supreme Court upheld a California Supreme Court that ruled that a state constitutional amendment was in violation of the equal protection clause of the Fourteenth Amendment because it essentially promoted private housing discrimination, and in doing so provided public support for private discriminatory practices.  In <i>Erickson</i> , the Court found that actions taken by Akron officials to amend their city charter to prohibit fair housing decisions to made without the approval of a majority of citizens was intentional in its attempt to exclude minorities and in violation of the equal protection clause.	Communities' ability to use exclusive zoning regulations to exclude low-income housing was restricted.
1967-68	Kerner Commission	Formulation of an explicit policy goal to support the development of integrated communities.	Shift in political opportunity structure: Racial integration as an urgent need.
1968	Assassination of Dr Martin Luther King Jr.	Death of central civil rights leader.	Additional shifting of political opportunity structure.
1968	Green v. County School Board	Ruled that the constitution requires "disestablishment of exiting segregation and elimination of the vestiges of past segregation (Roisman, 1999)	Provided constitutional support for the Fair Housing Act.
1968	Passage of Fair Housing Act	Outlawed discrimination in housing	Intent: To prohibit discrimination with respect to private and public housing.
1968	<i>Jones v. Alfred H. Mayer Co.</i>  <i>Trafficante v. Metropolitan Life Insurance Co.</i> (1972)	The Warren Court ruled against the Mayor Company who were sued for refusing to sell housing to African-Americans solely on the basis of race.  The Burger Court found for the plaintiffs and against a landlord of a San Francisco apartment complex sued for using discriminatory rental practices. The plaintiffs had sued on the basis that the discriminatory practices limited their access to an integrated environment.	These cases demonstrated that integration was still a viable goal under the Fair Housing Act as it pertained to rental transactions.
1971	<i>Gautreaux v. Romney</i>  <i>Hills v. Gautreaux</i> (1976)	Found that HUD was liable for discriminatory practices of Chicago Housing Authority Stemming from a suit originally filed in 1966 claiming that the Chicago Housing Authority was in violation of the equal protection clause and the 1964 Civil Rights Act, the Supreme Court ruled in 1971 and again in 1976 that the Department of Housing and Urban Development (HUD) was liable for the discriminatory practices of the Chicago Housing Authority.	A set of remedies were provided and implemented; including strategies to promote mixed income housing.
1968-1974	<i>Nixon Appointments to Supreme Court</i>	Appointed Harry Blackmun, Lewis F. Powell, Jr., William Rehnquist, and Warren Earl Burger.	Nixon's Court appointments changed the dynamics and ideology of the Court.
1971	Nixon Policy Statement	"We will not seek to impose economic integration upon an existing local jurisdiction; at the same time, we will not countenance any use of economic measures as a subterfuge for racial discrimination"	Official policy against proactive policies supporting economic integration.

Table 1. Policies, Actions, and Events Related to Racial and Economic Residential Segregation

1971	<p><i>James v. Valtierra</i> (1971)</p> <p><i>Warth v. Seldin</i> (1975)</p> <p><i>Village of Arlington Heights v. MHDC</i> (1977)</p>	<p>In <i>Valtierra</i>, the Burger Court ruled that a community (in California) could use local referenda to prevent city officials to apply for federal housing funds to support public housing. In making this ruling, the Supreme Court overruled the precedent set in the <i>Erickson</i> ruling.</p> <p>In <i>Warth</i>, plaintiffs filed suit claiming that a zoning ordinance in an exclusive white suburb was restricting low-income families access to housing. Arguing that economics, not race, was the reason families couldn't move into this community, the Burger Court ruled for the community.</p> <p>In <i>MHDC</i>, the Arlington Heights community had refused to rezone an area to allow for the building of middle and low-income housing. The Burger Court found for <i>Arlington</i>, arguing, as in <i>Warth</i> that actual proof of intent to discriminate was needed to prove discrimination.</p>	<p>These rulings were a blow to advocates of racial integration and public housing in general. The rulings jointly permit communities to develop exclusionary zoning regulations and decide whether or not to provide low-income housing to the poor. The rulings contributed to the creation of a legal structure that reinforces segregation, especially among the poor.</p>
1975	<p><i>Southern Burlington County NAACP v. Township of Mount Laurel</i></p>	<p>The state court ruled that communities had an obligation to promote the "general welfare" of its citizens and that exclusionary zoning regulations were in violation of the state constitution. The court ruled that local communities had a responsibility to provide for low-income housing.</p>	<p>This case demonstrated that a state court could rule to restrict the use of exclusionary zoning regulations and that communities across the state have a joint responsibility for their residents.</p>
1971	<p><i>Swann v. Charlotte-Mecklenberg Board of Education</i>, (1971).</p> <p><i>Keyes v. Denver School District No. 1</i>, (1973).</p>	<p>In <i>Swann</i>, the Supreme Court ruled racially neutral desegregation plans were not sufficient and that a county-wide desegregation plan including busing was legal and allowable as a desegregation remedy.</p> <p>The Supreme Court ruled that it was allowable for northern cities and districts with growing and segregated Latino populations to develop and implement desegregation plans.</p>	<p>These two decisions expanded the reach of desegregation plans by allowing for county-wide desegregation plans, including busing. The <i>Keyes</i> decision expanded the right of desegregation to northern urban cities and included Latino students.</p>
1973	<p><u>Supreme Court</u> <i>San Antonio Independent School District v. Rodriguez</i></p>	<p>Ruled that an education is not a fundamental right and State education finance systems were acceptable if they met a "rational basis".</p>	<p>Court ordered desegregation orders couldn't go beyond central cities.</p>
1974	<p><i>Milliken v. Bradley</i>, 418 U.S. 717 (1974).</p>	<p>The Supreme Court found that a local inter-district desegregation plan involving Detroit and the surrounding was illegal, and that an inter-district plan must be able to demonstrate that the entire inter-district was the cause of segregation. The decision entailed that Detroit develop its own desegregation plan.</p>	<p>This decision limited the impact of <i>Keyes</i> and restricted the range of desegregation strategies available for use in northern urban cities.</p>
1988	<p><u>Legislation</u> Reauthorization of Fair Housing Act</p>	<p>Increased enforcement capability.</p>	<p>The influence of the first 20 years of the Act on increasing integration and eliminating discrimination was negligible at best.</p>
1990s	<p><i>Board of Education of Oklahoma v. Dowell</i>, 498 U.S. 237 (1991).</p> <p><i>Freeman v. Pitts</i>, 503 U.S. 467(1992).</p> <p><i>Missouri v. Jenkins</i>, 115 S.Ct. 2038(1995).</p>		<p>These three cases provided the legal standing for the dismantling of existing desegregation plans.</p>

## Discussion

An examination of federal court cases in the areas of exclusionary zoning, school desegregation and school finance reform supports the hypothesis that the political and legal opportunity structure shifted in the early 1970s and limited the feasibility of policies supporting racial residential integration. For instance, the *Valtierra* (1971), *Warth* (1975), and *MHDC* (1977) cases reversed in part the rulings made in *Erickson* (1969). As a group, these three cases provided legitimate means for communities to develop and use exclusionary zoning regulations to limit the building of low-income and affordable housing. A shift in the composition of the Supreme Court (e.g., Nixon’s four Court appointments) and rising community angst with pre-integration efforts to expand public housing (e.g, the Open Communities initiative) shifted the legal opportunity structure towards policies and legal decisions limiting racial and economic integration in suburban areas.

A similar dynamic is evident in litigation related to school desegregation. The *Swann* (1971) and *Keyes* (1973) cases reflect a move to increase the reach and impact of desegregation remedies—by extending desegregation across counties (*Swann*) and to northern cities (*Keyes*). However, the Nixon Administration’s opposition to increased desegregation efforts, fueled in part by their desire to cultivate the suburban vote, culminated in the *Milliken* (1974) and *Rodriguez* (1973) decisions (Lamb, 2005; Orfield & Lee, 2006). In *Milliken*, the Court ruled that Detroit’s inter-district desegregation plan was illegal and contrary to the local control of education. In making this decision, the Court severely limited the impact of school desegregation efforts. James Ryan (1999) argues that the *Milliken* decision “...foreclosed the possibility of achieving real integration in Detroit, and a host of other northern and western metropolitan areas...(and) without being able to draw on the heavily white student population in the suburbs,



urban desegregation plans could not hope to achieve much integration due to the simple fact that there were not enough white students to go around.”(p. 14). In the *Rodriguez* (1973) case, the Court found that inequalities in school funding did not violate the federal equal protection clause. The impact of *Rodriguez* compounded and supported the *Milliken* decision in that suburban school districts were not legally responsible for providing funding for inter-district desegregation efforts, or other means of equalizing education funding across districts.

The ability of suburban communities to limit the growth of low-income housing and relinquish their responsibility for the education of students in surrounding communities acts as a disincentive for communities to pursue policies that would promote racial residential integration. The perception of black and minority communities as unsafe and crime ridden—a perception enhanced by the reality of crime and living conditions in inner-city housing projects—fosters the race-based neighborhood stereotyping that Ellen (2000) argues to be a central reason for continued racial residential segregation. Without a legal incentive to integrate (e.g., through inclusive zoning regulations or expanded desegregation policies) race-based stereotyping will continue and extenuate existing racial and economic segregation.

### **The 1990s—A New Opportunity, Similar Results**

In the 1990s a smaller, but equally viable, window of opportunity for pro-integrationist policies and efforts presented itself. Shifts in the political opportunity structure included the election of a democratic President, the reauthorization of the Fair Housing Act in 1988 to include increased enforcement provisions including the ability of the Department of Justice to pursue discrimination claims, and the relative success of certain strategies to remedy discrimination and segregation in public housing.

A significant number of lawsuits have challenged the overall discriminatory practices used by local housing authorities to use housing projects to segregate high-poverty, predominately black, neighborhoods. The series of *Gautreaux* decisions<sup>6</sup> are perhaps the most well-known and influential court cases regarding discrimination in public housing. Stemming from a suit originally filed in 1966 claiming that the Chicago Housing Authority (CHA) was in violation of the equal protection clause and the 1964 Civil Rights Act, the Supreme Court ruled in 1971 and again in 1976 that HUD was liable for the discriminatory practices of the CHA (Roisman, 1999). In the 1976 decision, the Court ruled that HUD and CHA could be required to remedy the segregation by working across the Chicago metropolitan area, not just in Chicago. The *Gautreaux* decisions touched off a number of desegregation suits against HUD across multiple (over 20) cities across the U.S. and led to a number of changes in how public housing is managed and the strategies and types of initiatives used to support individuals and families eligible for low-income public housing (Roisman, 1999). One of the best-know remedies proposed by the court and subsequently utilized across multiple sites is the Gautreaux Assisted Housing Program, which promoted scattered-site housing and the placement of public housing residents in integrated areas, thus decreasing the racial isolation caused by urban housing projects.

In 1992, HUD initiated the Movement to Opportunity (MTO) program, modeled after the Gautreaux Assisted Housing Program, as a means of decreasing residential segregation. Also introduced in 1992, HUD began the HOPE (Housing Opportunities for People Everywhere) VI program, which was designed and intended to improve living environments and revitalize public housing sites (Popkin et al., 2004). The MTO program had difficulty getting off the ground, and was eventually ended in the late 1990s. Goering (2005) points out that the MTO program failed

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<sup>6</sup> *Gautreaux v. Romney* (1969) and *Hills v. Gautreaux* (1976)

due to a lack of proactive communication about the actual intent of the program to local communities, and specifically to the African-American community—leading to their mobilization against the enactment of program activities. While HOPE VI continues to be implemented, neither it nor MTO has made a marked difference in decreasing residential segregation (Popkin et al., 2004).

While it can be argued that the political opportunity structure in the early 1990s was promising for the development of pro-integrationist policies, the same cannot be said for the legal opportunity structure. In fact, a series of desegregation cases—*Dowell* (1991), *Freeman* (1992) and *Jenkins* (1995)—provided the legal standing for the dismantling of existing desegregation plans. In each case, existing desegregation plans were ended, either in full or piecemeal (*Freeman*), resulting in a re-segregation of city schools or heightened segregation in already segregated schools (Orfield & Lee, 2006).

Similar to the events and litigation marking the end of the first wave of pro-integrationist policy efforts (1968 to 1972), the second window of opportunity closed due to a lack of alignment between policies supported by HUD (and in the case of MTO and HOPE VI, also supported by the President), the values of affected communities, and the decisions rendered by the Supreme Court.

## **Summary**

An examination of the evolution of racial and economic residential segregation and the policies, litigation and actions that have influenced its development provides two central lessons that inform the development of future strategy to promote racial and economic integration. First, it is clear that federal efforts to promote a pro-integrationist agenda are not feasible or likely to

succeed. In a political climate marked by partisan politics and closely fought elections, elected officials have little incentive to explicitly support pro-integrationist policies. Also, poor implementation of the MTO is evidence that federal government and HUD finds it difficult to appropriately communicate the goals of housing policy and attend to local context and situations in a way that can provide for meaningful adaptation and implementation of federal policy. Second, the fact that racial residential segregation is a result of interdependent and reinforcing policies and social values suggests that no single policy, or court remedy will be sufficient to promote racial integration. Instead, efforts to increase racial integration require the crafting of a careful mix of local policies, which may or may not include litigation. The past and recent<sup>7</sup> trend of the U.S. Supreme Court to render decisions that reduce a community's ability to become or remain integrated provide further evidence that litigation, as a policy instrument, must focus on issues and claims to be settled in the state court system.

Overall, this analysis suggests that the language and strategies of the Civil Rights movement are losing strength, and that people are becoming weary of the language and motivation of the Civil Rights movement. As a result, movements and policies supporting racial integration will need to be crafted in such a way that potential constituents are not immediately alienated and turned away. Crafting such policy may require the development of a new policy platform that avoids the language and arguments typically used by proponents of the civil rights movement and instead provides positive incentives for all communities—suburban and urban alike—to develop policies fostering the development of inclusive communities.

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<sup>7</sup> For instance, it is likely that in the current cases being heard by the Supreme Court (*Meredith v. Jefferson County Board of Education* No. 05-915; *Parents Involved in Community Schools v. Seattle School District* No. 05-908) the Court will rule that communities cannot use race to integrate schools, even when approved by the local school board, doesn't pass strict scrutiny and is not permitted.

### **Section III**

#### **Promoting Racial and Economic Integration: Developing Coherent and Strategic Policy**

Significant segments of American society live in highly segregated neighborhoods and communities. The factors contributing to this situation are strong—they include federal court and policy decisions made during the Nixon Administration, the continued reinforcement of social and cultural attitudes that discourage the development of inclusive communities, and ongoing use of locally-based policies (e.g., zoning policies) that often mirror social and cultural attitudes towards integration. Political and cultural barriers to integration fly in the face of evidence demonstrating the continued cost and detrimental societal ramifications of segregated communities.

Efforts to increase racial and economic integration in urban and suburban areas require shifts in policies and changes in societal attitudes toward integration. The strategic development of strategies and use of appropriate policy instruments to promote racial and economic integration must attend to the historical roots of contemporary racial and economic segregation. It is necessary to alter state- and local-level political and legal opportunity structures in order to create situations that facilitate shifts in policy that support efforts to improve racial and economic integration. The selected strategies must have broad appeal, yet be flexible and adaptable to local contexts.

The goal of the proposed policies and strategies are to (1) decrease racial and economic residential segregation in urban communities and (2) increase, to the extent possible given existing demographic trends, racial and economic residential integration in targeted metropolitan areas. The following strategies and policies for attaining these goals are proposed:

- (1) Develop, communicate and build support for a coherent and politically feasible policy position regarding racial and economic integration??
- (2) Promote the use of appropriate policy instruments in targeted communities with existing and increasing economic and racial segregation, focusing on exclusionary zoning regulations, voluntary school desegregation, education finance and affordable housing.

The proposed strategies and related policy instruments are described in detail below, and are meant to be implemented in tandem and build upon each other.

**Craft a Coherent Policy Statement and Create Urgency:** A critical first step is to develop a clear and explicit policy statement regarding racial and economic integration that provides and allows for the inclusion of related, yet currently unaligned, policy positions. In order to craft a politically feasible pro-integrationist policy position, it is essential that the issue of racial and economic integration be constructed and reframed as part of a movement to promote inclusive and diverse communities through increased opportunity and choice for all families rather than as an issue focused primarily on civil rights. By stressing the importance of providing opportunity and choice for all instead of focusing on addressing discrimination, pro-integrationist policies will be less likely to immediately alienate white suburban homeowners (and thus make the position politically untenable). Likewise, a policy statement that emphasizes inclusiveness will provide meaningful placeholders for policy issues that are somewhat related to racial and economic integration, e.g., policy issues such as affordable housing, housing discrimination and federal housing policy, school finance, and workforce development.

As Ellen (2000) argues, policies to increase racial integration must attend to the mental mindset and cultural values and beliefs of those being asked to change behavior. However, there

is no “cultural mechanism” to address social and cultural belief systems; as a result, it is important to craft strategies that are designed to shift the cultural mindsets of individuals and that work to counter the overt and lingering effects of racism (e.g., stereotypes of black neighborhoods as dangerous and undesirable places to live). Further, it is critical that individuals have the opportunity to understand the societal impact of increased racial and economic segregation.

Building awareness and creating urgency is best accomplished through a mix of state and national strategies. Ideally, a centralized organization (e.g., a non-profit or foundation) would spearhead this movement, building directly upon the developed Policy Statement, as described earlier. The following is a suggested set of media and informational based strategies, with the understanding that implementation depends on having sufficient resources.

- Develop a set of policy briefs that recast the specific policy area (e.g., exclusionary zoning, affordable housing, voluntary school desegregation, school finance) within the context of an overarching policy statement that emphasizes the development of inclusive communities that provide improved opportunity and choice for all families.
- Collect and coordinate the dissemination of research on issues related to racial and economic integration and segregation—this could include the development of consumer-oriented summaries of research (e.g., costs related to prisons, health, schooling).
- Develop and disseminate summaries of important litigation and related policies (federal and state) across multiple policy areas related to segregation and racial discrimination—these summaries would be used by local advocates to support state-level litigation and inform the development of locally-based strategies (e.g., litigation, community action strategies).

**Use of Contextually Appropriate and Locally-Driven Policy Instruments:** Efforts to support racial and economic residential integration will require locally-driven efforts around a set of related policy areas, as discussed in Sections I and II<sup>8</sup>. Some policy instruments may focus on changing state policy in certain areas, while other instruments will focus on changing local policies and regulations. A brief review of some potential policy instruments and strategies follow:

**Voluntary School Desegregation:** Local communities can pursue voluntary integration of public schools based on race and poverty. If mandated desegregation plans continue to be dismantled, schools will likely re-segregate and continue to foster race-based and negative stereotyping of minority neighborhoods and schools. The development of voluntary integration plans requires that local communities design policies that past strict scrutiny<sup>9</sup> (Orfield & Lee, 2006).

**Inclusive Zoning Regulations:** Local communities can develop inclusive zoning regulations that promote the development of mixed-income housing and affordable housing. State-level litigation supporting inclusive zoning is feasible, based on the example of the *Mount Laurel* (1975) cases in which the court ruled that local communities across the state had a responsibility and obligation to develop low-income and affordable housing. Successful litigation related to the building of affordable housing across broader metropolitan areas and a

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<sup>8</sup> I have no specific answers to address policy strategies at the local level. I recognize this problem in my paper. However, I do feel that a detailed analysis of the local context and consideration of a wide range of policy instruments in a particular setting is the most feasible way to promote racial residential integration. As such, I feel confident in my ability to take the lessons learned in this class, and the knowledge that I've gained through this paper, and effectively "strategize" policy in a local setting – dissertation?

<sup>9</sup> The Supreme Court's decision on the legality of the Seattle school district voluntary integration plan will impact the ability of local communities to develop voluntary desegregation plan. I actually think that there is a way around this not presented in the arguments by the defense – State education departments could set insert into "opportunity to learn" standards the requirement that schools in a given community reflect the racial makeup of the larger community. If this language was in state regulations, or even in constitutions, then the argument is turned on its head, in favor of those supporting school integration.

Please Cite as: Lane, B. (2007). *An Examination of the Roots of Contemporary Racial Residential Segregation*. Providence, RI: INSTLL, LLC



reframing of the state's obligation to promote the general welfare of its citizens will increase the number of affordable housing units and increase racial residential integration.

**Pursue Fiscal Equity Litigation:** A number of states have found success in arguing fiscal equity cases based on an adequacy argument, leading to increased funding for schools in high-poverty communities. According to school finance reform advocates, successful school finance litigation (and subsequent changes to education finance policy) will lessen the economic incentives to move to and live in school districts with higher per pupil expenditures. In addition to reducing incentives to move, successful changes to education finance policy will, it is argued, contribute to better learning conditions (e.g., students' opportunity to learn) in urban settings and subsequent improvements in students' academic performance.

**Promote state-level approaches to mixed-income housing and enforce existing fair housing regulations:** A major reason for the failure of the MTO program was its lackluster implementation by the federal government and HUD. A state driven program, modeled on the MTO and the Gautreaux Assisted Housing Program would have a much better chance of being accepted by local communities, assuming that the state bureaucracy designed a strategy to communicate and build stakeholder support prior to implementation, instead of imposing such a program in top-down fashion.

## Summary

Efforts to decrease racial and economic residential segregation in targeted urban and suburban settings will require strategies designed to shift cultural and social attitudes towards integration and broaden awareness of the detrimental effects of segregation. Such strategies include developing a unified policy statement focusing on the development of inclusive and

diverse communities and building awareness of, and urgency for, inclusive and diverse communities. These strategies, while not typically considered “policy instruments”, reflect the need to create a groundswell of support (e.g., a social movement) that will, in turn, provide the political and legal opportunity structure needed to enact policy change. Policy areas with the greatest leverage points (with respect to supporting racial and economic integration) and that appear ripe for policy change include education finance reform, exclusionary zoning regulations, and affordable housing. Shifts in state and local policies and litigation in these areas when needed and appropriate, combined with efforts to shift public perception of integrated communities, provide the greatest opportunity for long-term shifts in policy and an overall decrease in racial and economic residential segregation.

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