

# LIMITS ON HOUSING AND NEIGHBORHOOD CHOICE: DISCRIMINATION AND SEGREGATION IN U.S. HOUSING MARKETS

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## INTRODUCTION

When Congress passed the Fair Housing Act in 1968, America's neighborhoods were starkly segregated by race, and black families were routinely—and explicitly—denied homes and apartments in white neighborhoods. In the four decades since, we have made significant progress in combating housing discrimination, and the racial landscape of our cities and suburbs has changed dramatically. Nonetheless, blacks, Latinos, Asians, and Native Americans still experience discrimination when they search for homes and apartments, and neighborhood segregation—especially of blacks from whites—remains stubbornly high. This Article summarizes the most recent research evidence on discrimination and segregation in U.S. housing markets to describe both the progress we have achieved and the challenges that remain.

### I. HOW MUCH HOUSING DISCRIMINATION STILL OCCURS?

Since the 1960s, advocates for fair and open housing have used a technique called “paired testing” to detect and reveal discrimination by real estate and rental agents. In a paired test, two individuals—one white and the other minority—pose as equally qualified homeseekers. Both testers are carefully trained to make the same inquiries, express the same preferences, and offer the same qualifications and needs. From the perspective of the housing provider they visit, the only difference between the two is their race or ethnicity, and they should therefore receive the same information and assistance. Systematic differences in treatment—telling the minority customer that an apartment is no longer available when the white is told he could move in next month, for example—provide powerful evidence, easily understandable by juries and the general public, of discrimination that denies minorities equal access to housing.

To illustrate, the National Fair Housing Alliance recently filed lawsuits against major real estate companies in the cities and suburbs of Chicago,<sup>1</sup> Atlanta,<sup>2</sup> and Detroit.<sup>3</sup> Paired testing in these communities revealed that real estate agents showed blacks and Latinos homes in majority-minority

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1. National Fair Housing Alliance, [http://www.nationalfairhousing.org/newsArchive.php?section\\_id=23&detail\\_id=92](http://www.nationalfairhousing.org/newsArchive.php?section_id=23&detail_id=92) (last visited Mar. 21, 2008).

2. National Fair Housing Alliance, [http://www.nationalfairhousing.org/newsArchive.php?section\\_id=23&detail\\_id=93](http://www.nationalfairhousing.org/newsArchive.php?section_id=23&detail_id=93) (last visited Mar. 21, 2008).

3. National Fair Housing Alliance, [http://www.nationalfairhousing.org/newsArchive.php?section\\_id=23&detail\\_id=91](http://www.nationalfairhousing.org/newsArchive.php?section_id=23&detail_id=91) (last visited Mar. 21, 2008).

communities while showing whites homes in predominantly white communities, even though both white and minority testers could afford comparable prices and asked about neighborhoods near their work. In addition, agents made disparaging comments to white homebuyers about minorities and minority communities.<sup>4</sup>

When a large number of consistent and comparable tests are conducted for a representative sample of real estate or rental agents, the results control for differences between white and minority customers, and directly measure the prevalence of discrimination across the housing market as a whole.<sup>5</sup> The Department of Housing and Urban Development (“HUD”) recognized the potential of the paired testing methodology as a research tool and has used it to monitor the incidence of housing discrimination nationwide at roughly ten year intervals. Specifically, the 1977 Housing Market Practices Study provided the first solid estimates of the prevalence of discrimination against African-American homeseekers<sup>6</sup> and helped build the case for strengthening the enforcement of federal fair housing protections in the 1988 Fair Housing Amendments Act. The 1989 Housing Discrimination Study extended those initial national estimates to cover Hispanics and concluded that overall levels of adverse treatment against African Americans had remained essentially unchanged since 1977.<sup>7</sup> Most recently, the 2000 Housing Discrimination Study (“HDS2000”) reported the change since 1989 in discrimination against African Americans and Hispanics, and up-to-date estimates of the incidence of discrimination, including the first national estimates of discrimination against Asians and Pacific Islanders and the first rigorous estimates of discrimination against Native Americans searching for housing outside of Native Lands.<sup>8</sup>

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4. National Fair Housing Alliance, <http://www.nationalfairhousing.org/index.php> (last visited Mar. 21, 2008).

5. In 2002, a methodological workshop convened by the National Research Council confirmed the potential of rigorous paired testing research, reviewed issues of statistical significance and generalizability, and identified ways in which paired testing studies could be strengthened. See NAT’L RESEARCH COUNCIL, MEASURING HOUSING DISCRIMINATION IN A NATIONAL STUDY: REPORT OF A WORKSHOP (Angela Williams Foster et al. eds., 2002).

6. RONALD E. WIENK ET AL., U.S. DEP’T OF HOUS. & URBAN DEV., MEASURING RACIAL DISCRIMINATION IN HOUSING MARKETS: THE HOUSING MARKET PRACTICES STUDY (1979).

7. MARGERY AUSTIN TURNER ET AL., U.S. DEP’T OF HOUS. & URBAN DEV., HOUSING DISCRIMINATION STUDY: SYNTHESIS (1991).

8. MARGERY AUSTIN TURNER ET AL., U.S. DEP’T OF HOUS. & URBAN DEV., DISCRIMINATION IN METROPOLITAN HOUSING MARKETS: NATIONAL RESULTS FROM PHASE I OF HDS2000 (2002) [hereinafter TURNER ET AL., PHASE I]; MARGERY AUSTIN TURNER & STEPHEN L. ROSS, U.S. DEP’T OF HOUS. & URBAN DEV., DISCRIMINATION IN METROPOLITAN HOUSING MARKETS: PHASE 2—ASIANS AND PACIFIC ISLANDERS [hereinafter TURNER & ROSS, PHASE 2]; MARGERY AUSTIN TURNER & STEPHEN L. ROSS, U.S. DEP’T OF HOUS. & URBAN DEV., DISCRIMINATION IN METROPOLITAN HOUSING MARKETS: PHASE 3—NATIVE AMERICANS (2003) [hereinafter TURNER & ROSS, PHASE 3].

*A. Evidence of Progress*

Between 1989 and 2000, the incidence of discrimination against African Americans declined significantly, in both rental and sales markets nationwide.<sup>9</sup> The incidence of discrimination against Hispanic homebuyers also declined, but no significant change occurred for Hispanic renters.<sup>10</sup>

More specifically, the incidence of discrimination against African-American renters declined from 26% in 1989 to 22% in 2000, while discrimination against Hispanic renters stayed essentially unchanged at 26%.<sup>11</sup> The decline in adverse treatment against black renters reflects the fact that blacks are now much more likely to be told about the same number of available units as comparable white renters, and to be able to inspect the same number of units.<sup>12</sup> Hispanics appear no better off than in 1989 on these indicators. They are now more likely than in 1989 to be quoted a higher rent compared to non-Hispanic whites when asking about the same unit.<sup>13</sup> On the other hand, agents are more likely than in 1989 to encourage Hispanics to apply by asking them to complete an application and/or make future contact.<sup>14</sup>

In metropolitan sales markets, both African Americans and Hispanics have experienced quite dramatic declines in discrimination since 1989.<sup>15</sup> Specifically, the incidence of discrimination dropped from 29% in 1989 to 17% in 2000 for African-American homebuyers and from 27% to 20% for Hispanic homebuyers.<sup>16</sup> These overall reductions in sales market discrimination reflect more complex changes in patterns of discrimination on individual treatment measures. For African Americans, the decline in adverse treatment is largest with respect to housing availability; black homebuyers are more likely to be told about the same number of available homes as whites than they were in 1989.<sup>17</sup> However, black homebuyers are also more likely to be steered to racially mixed neighborhoods (while comparable whites are steered to predominantly white neighborhoods) compared to 1989.<sup>18</sup> In other words, they may find out about just as many homes as comparable whites, but not necessarily in the same neighborhoods.

Hispanic homebuyers are also much more likely now than in 1989 to be told about and to inspect the same number of available homes as non-Hispanic

9. TURNER ET AL., PHASE I, *supra* note 8, at iv.

10. The discrimination estimates reported here are based on the share of tests in which the white tester was *consistently* favored over his or her minority partner. For a detailed discussion of how measures of discrimination are constructed and how their statistical significance is determined, see TURNER ET AL., PHASE I, *supra* note 8.

11. *Id.* at iii.

12. *Id.* at iii-iv.

13. *Id.* at 3-7.

14. *Id.* at 3-8.

15. *Id.* at iii.

16. *Id.*

17. *Id.* at 3-12.

18. *Id.*

whites.<sup>19</sup> They are also more likely to receive equal levels of follow-up contact from real estate agents.<sup>20</sup> Over the course of the 1990s, agents appear to have expanded the assistance and information about financing that they provide to white customers, but not Hispanics, leading to an increase in the level of adverse treatment experienced by Hispanics on measures of financing assistance.<sup>21</sup>

### *B. Persistence of Discrimination*

Despite the significant progress since 1989, levels of discrimination against African-American and Hispanic homeseekers remain unacceptably high. Moreover, HDS2000 shows (for the first time) that Asians and Pacific Islanders also face significant levels of adverse treatment nationwide and that Native American renters may face even higher rates of discrimination than other groups (based on evidence from three states).<sup>22</sup> Estimates of discrimination in the rental market are relatively similar across racial/ethnic groups, ranging from 29% for Native Americans to 20% for blacks. In the sales market, levels of discrimination are somewhat lower, but still significant—ranging from 17% for African Americans to 20% for Asians.

### *C. Patterns of Discriminatory Treatment*

Although overall summary measures are useful for estimating how big the problem of discrimination is, policymakers and practitioners should focus on individual treatment measures to develop strategies for reducing discrimination. In the rental market, the most frequent form of discrimination against blacks, Hispanics, and Native Americans is denial of information about available housing units.<sup>23</sup> This is a critically important form of discrimination because it so clearly limits the options from which minority homeseekers can choose. Both blacks and Hispanics are also less likely than comparable white homeseekers to be given opportunities to actually inspect available units,<sup>24</sup> another extremely damaging form of discrimination. Asian renters, on the other hand, are just as likely as comparable whites to be able to inspect available units.

Patterns of discrimination look quite different in metropolitan sales markets. African-American homebuyers still face some discrimination with respect to information about available homes, and opportunities to inspect homes. In addition, agents steer black customers to homes in less predominantly white neighborhoods, provide less information and assistance with financing, and offer less encouragement overall.<sup>25</sup> Hispanic homebuyers also face some

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19. *Id.* at 3-16.

20. *Id.*

21. *Id.* at 3-17.

22. TURNER & ROSS, PHASE 2, *supra* note 8; TURNER & ROSS, PHASE 3, *supra* note 8.

23. TURNER ET AL., PHASE I, *supra* note 8, at Foreword; TURNER & ROSS, PHASE 3, *supra* note 8, at 4-1.

24. TURNER ET AL., PHASE I, *supra* note 8, at iii-iv.

25. *Id.* at 3-11 to -13.

discrimination with respect to information about available homes, but the major obstacle they face appears to be the lack of assistance with financing compared to equally qualified white buyers.<sup>26</sup> Finally, the incidence of discrimination against Asian homebuyers is shockingly high, including unfavorable treatment with respect to information about available homes, opportunities to inspect homes, and assistance with financing.<sup>27</sup>

The results presented here do not necessarily capture all the discrimination that may occur in the process of a housing search. HDS2000, like most paired testing studies, focused on the initial, in-person encounter between a homeseeker and a rental or sales agent.<sup>28</sup> Minorities may experience discrimination before this encounter can even occur, if they are unable to make an appointment to meet with a real estate or rental agent. A growing body of exploratory research suggests that most Americans can identify a person's race or ethnicity over the telephone with a fairly high degree of accuracy.<sup>29</sup> If this is the case, some real estate and rental agents may use telephone screening to avoid minority customers altogether. Additional incidents of adverse treatment may also occur later in the housing transaction when a renter submits an application or negotiates lease terms or when a homebuyer makes an offer on a particular unit or applies for mortgage financing.

#### *D. Mortgage Lending*

In addition to the national estimates of discrimination by real estate and rental agents, a pilot paired testing study in two metropolitan areas—Los Angeles, California and Chicago, Illinois—revealed serious problems of discrimination against blacks and Hispanics by mortgage lending institutions.<sup>30</sup> Testers posing as first-time homebuyers visited mortgage lending institutions in person to inquire about how much they could qualify to borrow and what types of products might be available to them.<sup>31</sup>

Results indicate that in both metropolitan areas, African-American and Hispanic homeseekers face a significant risk of being denied information that comparable white customers receive.<sup>32</sup> Minority homeseekers were denied basic information about how much they could afford to borrow, told about fewer loan products, offered less “coaching” about how to qualify for mortgage financing,

26. *Id.* at 3-17.

27. TURNER & ROSS, PHASE 2, *supra* note 8, at iii-v.

28. TURNER ET AL., PHASE I, *supra* note 8, at ii-iii.

29. Douglas S. Massey & Garvey Lundy, *Use of Black English and Racial Discrimination in Urban Housing Markets: New Methods and Findings*, 36 URB. AFF. REV. 452 (2001), available at <http://uar.sagepub.com/cgi/content/abstract/36/4/452>.

30. MARGERY AUSTIN TURNER ET AL., U.S. DEP'T OF HOUS. & URBAN DEV., ALL OTHER THINGS BEING EQUAL: A PAIRED TESTING STUDY OF MORTGAGE LENDING INSTITUTIONS (2002).

31. *Id.* at 4-6.

32. *Id.* at 37.

and given less aggressive follow-up from loan officers.<sup>33</sup> The incidence of unfavorable treatment varied considerably across indicators, ranging from 10 to 15% of tests in which minorities were denied basic information that their white partners received, to as high as 50% of tests in which whites received more “coaching” in how to qualify for financing than their minority partners.<sup>34</sup>

To illustrate, in one test, although the white tester declined to authorize a credit check, the loan officer pre-qualified him for a maximum loan amount of \$200,000.<sup>35</sup> When the same loan officer met with a Hispanic tester, he refused to provide any information or service without first conducting a credit check.<sup>36</sup> The loan officer told the Hispanic tester, “we usually don’t meet with anyone without doing the credit check, it would be a waste of time for you and for me,” and added “you can go to other lenders; they might be able to help you without first pulling out your credit as every mortgage corporation has a different policy.”<sup>37</sup> Another loan officer pre-qualified a white tester for a home price of \$185,000 and a maximum loan amount of \$175,750 and provided a “Pre-Qualification Certificate.”<sup>38</sup> Eight days later, the same loan officer pre-qualified a comparable African-American tester for a home price of only \$165,000 to \$175,000 and a maximum loan amount of \$160,000.<sup>39</sup> The loan officer did not provide the African-American tester with a “Pre-Qualification Certificate.”<sup>40</sup>

#### *E. Home Insurance*

In 1996, HUD funded an exploratory pilot study to determine whether the paired testing methodology could be effectively adapted to measure possible discrimination by home insurance providers against homes located in minority neighborhoods.<sup>41</sup> Previous research had documented that homeowners in minority neighborhoods had more difficulty obtaining home insurance, received inferior coverage, or paid more for full coverage than homeowners in white neighborhoods, but the research offered no credible evidence on the extent to which *discriminatory treatment* might be a contributing factor.<sup>42</sup> Testing for this study was conducted in three metropolitan areas, but in one of the three, the testing effort was detected by insurance providers and had to be terminated.<sup>43</sup> Interestingly, this exploratory effort did not find systematic patterns of adverse

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33. *Id.* at 36.

34. *Id.* at 25, 32.

35. *Id.* at 26.

36. *Id.*

37. *Id.*

38. *Id.* at 27.

39. *Id.*

40. *Id.*

41. DOUGLAS A. WISSOKER ET AL., TESTING FOR DISCRIMINATION IN HOME INSURANCE (1997), <http://www.urban.org/url.cfm?ID=307555&renderforprint=1>.

42. *Id.*

43. *Id.*

treatment by home insurance providers against properties in minority neighborhoods.<sup>44</sup> It did, however, raise concerns about possible disparate impacts from the rating area boundaries established by insurance companies.<sup>45</sup> In other words, white and black neighborhoods that were similar in many respects, including quality of the housing stock, homeownership rates, and income levels, were assigned by the insurance companies to different rating areas and therefore received different rate quotes.<sup>46</sup>

## II. DO AMERICANS KNOW—AND EXERCISE—THEIR FAIR HOUSING RIGHTS?

The Federal Fair Housing Act prohibits all of the discriminatory practices that paired testing has revealed in metropolitan housing markets today. But enforcement of federal fair housing protections depends primarily upon complaints from victims of discrimination. In other words, minority homeseekers have to know their fair housing rights, recognize when those rights may have been violated, and take action (with the help of a local fair housing group or a private attorney, or by going directly to HUD). Unfortunately, the evidence suggests that very few people actually do take action when they experience discrimination.

In order to assess both awareness of and support for federal fair housing protections, HUD recently commissioned two surveys of public awareness, the first in 2000/2001 with a follow-up in 2005.<sup>47</sup> The questionnaire centered around ten scenarios, each describing a set of actions by landlords, home sellers, real estate agents, or lenders, eight of which involve conduct that is prohibited under federal law.<sup>48</sup> Three scenarios describe discriminatory practices based on race or ethnicity:

[A] family is selling their house through a real estate agent. They are white, and have only white neighbors. Some of the neighbors tell the family that, if a non-white person buys the house, there would be trouble for that buyer. Not wanting to make it difficult for a buyer, the family tells the real estate agent they will sell their house only to a white buyer.

. . . A white family looking to buy a house goes to a real estate agent and asks about the availability of houses within their price range. Assuming the family would only want to buy in areas where white

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44. *Id.*

45. *Id.*

46. *Id.*

47. MARTIN D. ABRAVANEL, U.S. DEP'T OF HOUS. & URBAN DEV., DO WE KNOW MORE NOW? TRENDS IN PUBLIC KNOWLEDGE, SUPPORT AND USE OF FAIR HOUSING LAW (2006) [hereinafter ABRAVANEL, TRENDS IN PUBLIC KNOWLEDGE]; MARTIN D. ABRAVANEL & MARY K. CUNNINGHAM, U.S. DEP'T OF HOUS. & URBAN DEV., HOW MUCH DO WE KNOW? PUBLIC AWARENESS OF THE NATION'S FAIR HOUSING LAWS (2002). [hereinafter ABRAVANEL & CUNNINGHAM, HOW MUCH DO WE KNOW?].

48. ABRAVANEL & CUNNINGHAM, HOW MUCH DO WE KNOW?, *supra* note 47, at 7.

people live, the agent decides to show them only houses in all-white neighborhoods, even though there are many houses in their price range in other parts of the community.

... An Hispanic family goes to a bank to apply for a home mortgage. The family qualifies for a mortgage but, in that bank's experience, Hispanic borrowers have been less likely than others to repay their loans. For that reason, the loan officer requires that the family make a higher down payment than would be required of other borrowers before agreeing to give the mortgage.<sup>49</sup>

Respondents were asked if they approved or disapproved of the action taken in each scenario, and whether it was legal or illegal.<sup>50</sup>

Analysis of survey responses found widespread knowledge of most federal fair housing protections, particularly those relating to race and ethnicity. Eight of ten people (81%) know that it is illegal to restrict home sales to white buyers; almost three quarters know that it is illegal for lenders to require higher downpayments based on an applicant's ethnicity (70%); and almost six of ten know that it is illegal for real estate agents to show white buyers homes only in predominantly white neighborhoods (58%).<sup>51</sup> In general, people with higher incomes and education are generally more likely to understand federal fair housing protections. In addition, both blacks and Hispanics are significantly more likely than whites to know that limiting white buyers' house searches to white neighborhoods is illegal; Hispanics are more likely than either whites or blacks to know that restricting home sales to white buyers and requiring a higher downpayment based on ethnicity are illegal.<sup>52</sup>

Most Americans also express support for federal fair housing protections. Almost nine of every ten people say that they agree with prohibitions against restricting home sales to white buyers (88%) and against requiring a higher downpayment based on ethnicity (85%).<sup>53</sup> Seven of ten say it should be illegal to show white buyers homes only in white areas (71%).<sup>54</sup> Expressed support for these three protections is high for all population sub-groups, but significantly higher among blacks and Hispanics than among whites for prohibitions against restricting home sales to white buyers and prohibitions against showing white buyers homes only in white areas.<sup>55</sup>

Despite quite widespread knowledge of and agreement with federal fair

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49. *Id.* at 9-10.

50. *Id.* at 7. The other scenarios covered protections against discrimination for families with children, disabled people, and people of differing religions. *Id.* at 7-10. This survey was administered by telephone to a nationally representative sample of 1000 adults. *Id.* at 41.

51. ABRAVANEL, TRENDS IN PUBLIC KNOWLEDGE, *supra* note 47, at 14.

52. ABRAVANEL & CUNNINGHAM, HOW MUCH DO WE KNOW?, *supra* note 47, at 12.

53. ABRAVANEL, TRENDS IN PUBLIC KNOWLEDGE, *supra* note 47, at 14.

54. *Id.* at 22.

55. *Id.*



housing protections, most people who experience discrimination fail to act.<sup>56</sup> One reason is that people may not know that they have been victims of discrimination.<sup>57</sup> The paired testing research shows that housing discrimination today is rarely overt; minority homeseekers are almost always treated courteously and are often told about some available houses or apartments.<sup>58</sup> White testers sometimes report that they were discouraged from considering particular neighborhoods because they were racially mixed or that agents expressed a preference for renting or selling to a white customer.<sup>59</sup> Minority testers almost never hear such commentary. When discrimination takes the form of politely steering minority customers away from white neighborhoods, showing some but not all of the available apartments, or providing less assistance in resolving credit problems, victims rarely know that comparable white customers receive better treatment.<sup>60</sup>

Although many instances of housing discrimination almost certainly go undetected, a substantial number of Americans believe that they have been victims of discrimination at some point in their lives. In the survey of public knowledge and attitudes discussed earlier, 17% of adults in the United States reported having experienced some form of housing discrimination.<sup>61</sup> About half of that 17% described forms of discrimination that would be prohibited under the Federal Fair Housing Act, with race or ethnicity being the most common reason given for the perceived discrimination.<sup>62</sup> One of every five African-American adults and 6% of Hispanic adults reported having experienced discrimination based on their race or ethnicity at some time in their lives.<sup>63</sup>

Even when people think they have experienced discrimination, however, few take action. Eighty percent of the adults who reported having experienced forms of federally prohibited discrimination took no action.<sup>64</sup> Moreover, among the few who did something, the most common response to perceived discrimination was to complain to the person discriminating. Only 1% of the people who believed that they experienced discrimination went to a fair housing group to seek help or file a complaint; 1% filed a complaint with a government agency; and 2%

56. *Id.* at 36.

57. *Id.*

58. NAT'L FAIR HOUS. ALLIANCE, THE CRISIS OF HOUSING SEGREGATION: 2007 FAIR HOUSING TRENDS REPORT 29 (2007), <http://www.nationalfairhousing.org/resources/newsArchive/2007%20Fair%20Housing%20Trends%20Report.pdf>.

59. *Id.* at 5.

60. The National Fair Housing Alliance estimates that at least 3.7 million instances of discrimination based on race, ethnicity, or national origin occur annually in the U.S. *Id.* at 3; see also John A. Powell, *Reflections on the Past, Looking to the Future: The Fair Housing Act at 40*, 41 IND. L. REV. 605, 613 (2008).

61. ABRAVANEL, TRENDS IN PUBLIC KNOWLEDGE, *supra* note 47, at 30.

62. *Id.* at 31.

63. *Id.* at 34-35.

64. *Id.* at 36.

consulted a lawyer.<sup>65</sup>

Two-thirds of the people who took no action in response to perceived discrimination thought that it would not have been worth the effort (49%) or that it would not have helped (15%).<sup>66</sup> A much smaller share (11%) said they did not know how to complain.<sup>67</sup> Interestingly, when asked a more abstract question about whether they would complain if they experienced discrimination in the future, much larger shares of adults said they would take action. Specifically, four of ten adults (41%) say that they would be “very likely” to take action, and another 25% would be “somewhat likely.”<sup>68</sup> Among those who consider themselves very likely to respond, almost half (44%) said they would consult a lawyer, 26% said they would seek help or complain to a government agency, and 17% say they would go to a fair housing group.<sup>69</sup>

These findings suggest that many Americans know what actions they could take in response to discrimination and believe (in the abstract) that they would take action. Why then is the share of people who reportedly did take action in response to perceived discrimination so low? It appears that people’s expectations about the time and effort involved in filing a complaint (including the possible psychic costs) and about the likelihood of obtaining good results discourage them from taking action, even when they believe that they have been the victims of discrimination, know that they are protected under federal law, and have a reasonably good idea about where they could go for help.<sup>70</sup>

This is not to suggest that the Federal Fair Housing Act has been ineffective. Indeed, the decline in the overall incidence of discrimination against black renters and against both black and Hispanic homebuyers between 1989 and 2000 suggests that federal fair housing protections—along with public education and changing attitudes—have had a substantial impact on the behavior of real estate and rental agents. Housing providers have strong incentives to provide equal treatment to all their customers, regardless of race or ethnicity, when fair housing organizations bring suits against discriminatory real estate and rental agents based on systematic paired testing and when courts impose substantial penalties in high-profile cases. Nonetheless, the persistence of significant levels of discrimination in housing markets today and the fact that most victims are either unaware or take no action, demonstrates that federal fair housing protections are not fully effective.

### III. HOW SEGREGATED ARE OUR NEIGHBORHOODS?

For most of the twentieth century, discrimination by private real estate

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65. *See id.* These percentages may overlap because respondents could give multiple responses to the survey question about responses to perceived discrimination.

66. *Id.* at 36-37 tbl. 22.

67. *Id.* at 22.

68. *Id.* at 3.

69. *Id.* at 39.

70. *Id.* at 41-43.

agents, rental property owners, and lending institutions helped establish and sustain stark patterns of racial and ethnic segregation in urban neighborhoods across the country.<sup>71</sup> When the Federal Fair Housing Act was passed in 1968, most whites lived in neighborhoods that were almost exclusively white, while most blacks lived in majority-black areas. At that time, America's fast-growing suburbs were largely white, while its central cities were becoming increasingly black.<sup>72</sup> On a scale of zero to 100 (where 100 represents complete segregation), most large metropolitan areas—including Chicago, Milwaukee, Detroit, Boston, Indianapolis, and New York—registered levels of segregation above seventy on the dissimilarity index.<sup>73</sup>

In the decades since, levels of black-white segregation have declined across most of the country. But the decline has been slow, and levels of segregation remain high in most big urban areas—especially those where large numbers of blacks live.<sup>74</sup> The average discrimination score for the nation's major metropolitan areas has declined from 73.9% in 1980 to 65.1% in 2000, with the biggest declines occurring in metropolitan areas with the smallest black populations.<sup>75</sup> Today, more neighborhoods are shared by both whites and blacks than two decades ago, but many neighborhoods remain either predominantly white or predominantly black.<sup>76</sup>

Over the same period, America's racial and ethnic composition has changed dramatically, making the picture of residential segregation much more complex. As of 2000, the nation's population was 70% non-Hispanic white, 12.5% black, 12.5% Hispanic, and 4% Asian.<sup>77</sup> Generally, Hispanics and Asians are less segregated from non-Hispanic whites than are blacks, but their levels of segregation have risen, while black-white segregation has declined. Specifically,

71. Private sector discrimination was not the only factor. Public policy—including federal homeownership assistance, public housing, urban renewal, and exclusionary zoning and land use regulations—all played important roles in the establishment and maintenance of residential segregation. See, e.g., DOUGLAS S. MASSEY & NANCY A. DENTON, *AMERICAN APARTHEID: SEGREGATION AND THE MAKING OF THE UNDERCLASS* (1993); ALEXANDER POLIKOFF, *WAITING FOR GAUTREAUX: A STORY OF SEGREGATION, HOUSING, AND THE BLACK GHETTO* (2006).

72. Douglas S. Massey & Nancy A. Denton, *Trends in the Residential Segregation of Blacks, Hispanics, and Asians: 1970-1980*, 52 AM. SOC. REV. 802, 803 (1987).

73. *Id.* The "dissimilarity index" essentially reflects the share of minority group members who would have to move in order to achieve complete integration (defined as the same share of minorities in every census tract). This is one of several possible measures of segregation. *Id.* at 802-25.

74. *Id.* at 803-04.

75. Again, trends are reported in the dissimilarity index. See John R. Logan et al., *Segregation of Minorities in the Metropolis: Two Decades of Change*, 41 DEMOGRAPHY 1 (2004).

76. LYNETTE RAWLINGS ET AL., *RACE AND RESIDENCE: PROSPECTS FOR STABLE NEIGHBORHOOD INTEGRATION* (2004), available at <http://www.urban.org/url.cfm?ID=310985>.

77. MARGERY AUSTIN TURNER & JULIE FENDERSON, THE URBAN INSTITUTE, *UNDERSTANDING DIVERSE NEIGHBORHOODS IN AN ERA OF DEMOGRAPHIC CHANGE* (2006), available at [http://www.urban.org/UploadedPDF/411358\\_diverse\\_neighborhoods.pdf](http://www.urban.org/UploadedPDF/411358_diverse_neighborhoods.pdf).

the average index of Hispanic/white segregation registered 51.6 in 2000, up slightly from 51.0 in 1980, and Asian/white segregation stood at 42.2 in 2000, also up slightly from 41.8 in 1980.<sup>78</sup>

As the nation's population becomes more diverse, it becomes more difficult to make sense out of these traditional segregation measures. The latest census data offers both encouraging and discouraging evidence regarding trends in the racial and ethnic composition of city and suburban neighborhoods.<sup>79</sup> Both city and suburban neighborhoods today exhibit more diversity—along lines of race, ethnicity, nativity, and income—than is commonly recognized. For example, more than half of all neighborhoods in the 100 largest metropolitan areas nationwide (56.6%) are home to significant numbers of whites, minorities, and immigrants, with no single racial or ethnic group dominating the minority population. Six of ten (60.8%) are mixed-income—dominated neither by households in the highest income quintiles nor by those in the lowest. And about one-third of all tracts (34.9%) exhibit substantial diversity with respect to race, ethnicity, and income.

At the same time, however, a substantial share of neighborhoods remain either *exclusive*—occupied predominantly by affluent, native-born whites—or *isolated*—occupied predominantly by lower income minorities and immigrants. Specifically, almost a quarter of all tracts in the 100 largest metro areas (23.8%) are racially and ethnically exclusive (more than 90% white), while 16.4% are economically exclusive (less than 10% low-income with high-income households predominating). Moreover, patterns of racial and ethnic exclusion coincide with economic exclusion; almost all economically exclusive neighborhoods also exclude African Americans, and most neighborhoods in which non-whites predominate are economically isolated as well.<sup>80</sup>

Between 1990 and 2000, the share of all neighborhoods in the top 100 metropolitan areas nationwide that were racially and/or ethnically diverse increased. Specifically, the share of tracts occupied exclusively by whites (less than 10% non-white) dropped from 38.1% in 1990 to 25.7% in 2000.<sup>81</sup> The biggest increase occurred among tracts that were between 10% and 50% white, with no single group dominating the non-white population.<sup>82</sup> The number of tracts of this type climbed from 18.5% of all tracts in the top 100 metropolitan areas to 24.2% between 1990 and 2000.<sup>83</sup>

The racial/ethnic composition of most tracts (73.6%) remained relatively stable over the decade, but among those that changed, most gained minorities.<sup>84</sup> Given the long history of racial segregation in the United States, many people suspect that neighborhoods which appear to be racially diverse at any given point

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78. Logan et al., *supra* note 75, at 6.

79. TURNER & FENDERSON, *supra* note 77.

80. *Id.* at 2.

81. *Id.* at 32.

82. *Id.*

83. *Id.*

84. *Id.* at 35.

in time are actually in the process of transitioning (or tipping) from one racial majority to another. In fact, however, 57.7% of majority white tracts with blacks dominating the non-white population and 54.1% of majority white tracts with Hispanics dominating remained in the same category between 1990 and 2000.<sup>85</sup> Of those that transitioned, about one-third remained majority white, but with neither blacks nor Hispanics dominating the minority population.<sup>86</sup> The remaining two-thirds became majority-minority.<sup>87</sup> And interestingly, majority white tracts where Hispanics dominated the minority population in 1990 were more likely to transition to majority-minority status by 2000 than were majority white tracts where blacks dominated.

Finally, tracts that were majority white in 1990 with neither blacks nor Hispanics dominating the minority population were the most likely to be in the same category in 2000. Almost seven of every ten tracts in this category remained the same over the decade. Among those that changed, about a third (35.6%) remained majority white but transitioned to either black or Hispanic dominance of the minority population. Another 15.6% became majority-minority with either blacks or Hispanics dominating the minority population, and 43.6% became majority-minority with neither blacks nor Hispanics dominating.<sup>88</sup>

These trends (like the recent changes in patterns of housing discrimination) paint a mixed picture. The evidence suggests that more opportunities exist today than in the recent past for whites and minorities to live together in diverse neighborhoods, but that many neighborhoods still remain either exclusive (predominantly white and affluent) or isolated (predominantly minority and poor). Moreover, many neighborhoods that are racially and ethnically diverse appear to be stable, but a substantial minority may be transitioning to majority-minority status. Thus, while there is progress in combating both housing discrimination and segregation, stubborn problems remain unresolved.

#### IV. DOES HOUSING SEGREGATION LIMIT ACCESS TO ECONOMIC OPPORTUNITY?

Residential segregation not only separates white and minority neighborhoods, but also distances minority jobseekers from areas of employment growth and opportunity. Specifically, beginning in the late 1960s, John Kain argued that the concentration of blacks in segregated central city neighborhoods limited their access to employment, as growing numbers of jobs were dispersed to predominantly white suburban locations.<sup>89</sup> In effect, this “spatial mismatch” hypothesis posits that demand for labor has shifted away from the neighborhoods where blacks are concentrated; discrimination in housing and mortgage markets

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85. *Id.* at 36.

86. *Id.*

87. *Id.*

88. *Id.* at 36-37.

89. John F. Kain, *Housing Segregation, Negro Employment, and Metropolitan Decentralization*, 82 Q. J. ECON. 175, 196-97 (1968).

has prevented blacks from moving to where job growth exists; and information and transportation barriers make it difficult to find and retain jobs in these distant locations.<sup>90</sup> William Julius Wilson expanded on this basic hypothesis by arguing that the exodus of jobs from central city locations, combined with the persistence of residential segregation, contributed to rising unemployment among black men during the 1980s, as well as to worsening poverty and distress in black neighborhoods.<sup>91</sup>

How have recent changes in patterns of residential segregation affected the spatial mismatch problem? A recent analysis uses dissimilarity indexes (which are widely used to measure the extent of segregation between racial and ethnic groups) to quantify the spatial separation between people and jobs.<sup>92</sup> As of 2000, the dissimilarity index between population and employment is highest for African Americans (53 on a scale where 100 represents complete segregation), lower for Asians (43) and Hispanics (44), and lowest for whites (33).<sup>93</sup> During the 1990s, the index declined for blacks and Hispanics, while remaining essentially unchanged for Asians and increased slightly for whites.<sup>94</sup> These improvements appear to result primarily from changes occurring within metropolitan regions, not from people moving between regions.<sup>95</sup> The extent of mismatch remains greatest where black-white residential segregation is highest.<sup>96</sup> Reductions in spatial mismatch are associated with declines in segregation levels.

Thus, there is strong evidence that residential segregation continues to separate minorities from centers of employment opportunity and that this separation contributes to unequal employment outcomes. But the traditional image of minorities trapped in central city neighborhoods while jobs disperse to distant suburban locations is too simplistic. Today, minority workers (and especially low-skilled black workers) are still over-represented in central cities, while jobs (especially low-skill jobs) are widely dispersed throughout the suburbs. Although many minorities have gained access to suburban residential communities, these are often not the suburban jurisdictions that offer the most promising job opportunities.

Moreover, nearly half of all low-skill jobs in the white suburbs are

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90. Keith R. Ihlanfeldt & David L. Sjoquist, *The Spatial Mismatch Hypothesis: A Review of Recent Studies and Their Implications for Welfare Reform*, 9 HOUSING POL'Y DEBATE 849, 857 (1998).

91. See WILLIAM JULIUS WILSON, *THE TRULY DISADVANTAGED: THE INNER CITY, THE UNDERCLASS, AND PUBLIC POLICY* (1987). A recent review finds that most empirical studies support the spatial mismatch hypothesis. Specifically, of twenty-eight studies reviewed, twenty-one confirm the hypothesis, and the seven that reject it are methodologically flawed. Ihlanfeldt & Sjoquist, *supra* note 90, at 880.

92. See STEVEN RAPHAEL & MICHAEL A. STOLL, BROOKINGS INST., *MODEST PROGRESS: THE NARROWING SPATIAL MISMATCH BETWEEN BLACKS AND JOBS IN THE 1990s*, at 1 (2002).

93. *Id.* at 3.

94. *Id.* at 4-5.

95. *Id.* at 7-8.

96. *Id.* at 6.

inaccessible by public transportation, making it particularly difficult for minority residents of other sub-areas to reach them.<sup>97</sup> Not surprisingly, therefore, the race or ethnicity of new hires into low-skill jobs generally matches the racial composition of the area where jobs are located.<sup>98</sup> Black workers in particular are under-represented in jobs that are located in predominantly white suburban communities.<sup>99</sup> In addition, ratios of low-skilled jobs to less-educated people are consistently lowest in black and Hispanic areas and highest in the white suburbs. Although jobs in the central business district may be accessible for workers of all races and ethnicities, these jobs tend to be highly competitive and may require higher skills.<sup>100</sup> Thus, residential segregation continues to put considerable distance between minority workers—especially African Americans—and areas of greatest employment opportunity.

Residential segregation also contributes to minorities' unequal educational attainment, and hence to their disadvantaged position in the evolving labor market.<sup>101</sup> Black high school graduation rates, employment rates, and wages are all negatively associated with the level of black-white segregation in a city.<sup>102</sup> Other things being equal, high levels of segregation have been shown to increase high school drop-out rates among blacks, reduce employment among blacks (while increasing the white employment rate), and widen the gap between black and white wages.<sup>103</sup> Research indicates that public school desegregation plans of the 1970s reduced high school majority-minority rates among blacks by between one and three percentage points (half of the total decline achieved during the decade), while having no effect on majority-minority rates among whites.<sup>104</sup>

What is it about racial segregation that undermines the educational attainment, skills, and qualifications of minorities? The effects are most obvious—and most severe—in distressed central city neighborhoods where many low-income minorities are concentrated.<sup>105</sup> Many of these neighborhoods are served by failing public schools with high drop-out rates, low instructional

97. Michael A. Stoll et al., *Within Cities and Suburbs: Racial Residential Concentration and the Spatial Distribution of Employment Opportunities Across Sub-Metropolitan Areas*, 19 POL'Y ANALYSIS & MGMT. 207, 225-27 (2000).

98. *Id.*

99. *Id.*

100. See Harry J. Holzer, *Racial Differences in Labor Market Outcomes Among Men*, in 2 AMERICA BECOMING: RACIAL TRENDS AND THEIR CONSEQUENCES 98 (Neil J. Smelser et al. eds., 2001).

101. David M. Cutler & Edward L. Glaeser, *Are Ghettos Good or Bad?*, 112 Q. J. ECON. 827, 841-47 (1997).

102. *Id.*

103. *Id.*

104. See Jonathan Guryan, *Desegregation and Black Dropout Rates* 4 (Nat'l Bureau of Econ. Research, Working Paper No. 8345, 2001), available at <http://www.nber.org/papers/w8345.pdf>.

105. See Massey & Denton, *supra* note 72 (to understand how residential segregation led to the concentration of minority poverty).

quality, and poor test scores.<sup>106</sup> Black and Hispanic children attending these schools are at a tremendous disadvantage, even if they stay in school and work hard.

In addition, other conditions typical of distressed central city neighborhoods undermine their chances of succeeding academically and attaining the skills necessary to compete effectively in today's labor markets. In particular, peer pressure plays a critical role in shaping the choices of young people. If many of their friends and neighbors are uninterested in school or engaging in crime and other dangerous behaviors, teenagers will be more apt to see these activities as acceptable, even fashionable, behavior. Considerable research finds that teens from high poverty and distressed neighborhoods are less successful in school than their counterparts from more affluent communities. They earn lower grades, are more likely to drop out, and are less likely to go on to college.<sup>107</sup> Kids from poor neighborhoods are also less likely to get jobs during and immediately after high school. Finally, young people who live in high crime areas are more likely to commit crimes themselves.<sup>108</sup>

The effects of residential segregation on educational achievement, however, are not limited to distressed central city neighborhoods. Growing up in the segregated suburbs can also undermine the potential of minority young people, though in more subtle ways. Minority neighborhoods generally have lower house values compared to white neighborhoods, and consequently, a lower property tax base from which to fund public schools.<sup>109</sup> Moreover, public school performance in minority suburban communities typically falls considerably short of the standard expected of schools in white suburbs.<sup>110</sup> In fact, a panel study

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106. Katherine M. O'Regan & John M. Quigley, *Spatial Effects Upon Employment Outcomes: The Case of New Jersey Teenagers*, NEW ENG. ECON. REV., May-June 1996, at 41.

107. See, e.g., ANN C. CASE & LAWRENCE F. KATZ, *THE COMPANY YOU KEEP: THE EFFECTS OF FAMILY AND NEIGHBORHOOD ON DISADVANTAGED YOUTH* (1992); REBECCA L. CLARK, *NEIGHBORHOOD EFFECTS OF DROPPING OUT OF SCHOOL AMONG TEENAGE BOYS* (1992) (on file with Armed Forces Medical Library); Daniel Aaronson, *Sibling Estimates of Neighborhood Effects*, in 2 NEIGHBORHOOD POVERTY: POLICY IMPLICATIONS IN STUDYING NEIGHBORHOODS 80 (Jeanne Brooks-Gunn et al. eds, 1997); Jeanne Brooks-Gunn et al., *Do Neighborhoods Influence Child and Adolescent Development?*, 99 AM. J. SOC. 353 (1993); Jonathan Crane, *The Epidemic Theory of Ghettos and Neighborhood Effects on Dropping Out and Teenage Childbearing*, 96 AM. J. SOC. 1226, 1235-42 (1991); James P. Connell & Bonnie Halpern-Felsher, *How Neighborhoods Affect Educational Outcomes in Middle Childhood and Adolescence: Conceptual Issues and an Empirical Example*, in 1 NEIGHBORHOOD POVERTY: CONTEXT AND CONSEQUENCES FOR CHILDREN 174 (Jeanne Brooks-Gunn et al. eds., 1997); Greg J. Duncan et al., *Conceptual and Methodological Issues in Estimating Causal Effects of Neighborhoods and Family Conditions on Individual Development*, in 1 NEIGHBORHOOD POVERTY: CONTEXT AND CONSEQUENCES FOR CHILDREN 219 (Jeanne Brooks-Gunn et al. eds., 1997).

108. CASE & KATZ, *supra* note 107, at 3.

109. See generally MELVIN L. OLIVER & THOMAS M. SHAPIRO, *BLACK WEALTH/WHITE WEALTH: A NEW PERSPECTIVE ON RACIAL INEQUALITY* (1995).

110. See SHERYLL CASHIN, *THE FAILURES OF INTEGRATION: HOW RACE AND CLASS ARE*



examining Texas public school students finds that the achievement of black students declines significantly as the percentage of blacks in their schools rises.<sup>111</sup>

#### V. NEXT STEPS TOWARD OPEN AND INCLUSIVE NEIGHBORHOODS

Our nation has made important progress over the last forty years toward the goals of free and fair housing choices as well as open and inclusive neighborhoods, but we still have a long way to go. Discrimination persists, limiting the choices for minority homeseekers and making their housing search more difficult and costly, and neighborhood segregation remains stubbornly high, limiting opportunities for minorities to share fully in our nation's social and economic opportunities.

Research strongly suggests that Americans want more residential integration than we are getting. A substantial majority of whites say they would be comfortable living in a neighborhood that is more than 20% black, and more than half say they would be comfortable in neighborhoods that are more than one third black.<sup>112</sup> When asked to choose the racial mix they would most prefer, most blacks select a neighborhood that is roughly half white and half black, but most would be willing to move into a neighborhood with a larger share of whites in order to obtain high quality, affordable housing.<sup>113</sup>

If Americans would prefer to live in more racially mixed neighborhoods, why does residential segregation remain at such stubbornly high levels? Today, neighborhoods that are predominantly white or predominantly minority tend to stay that way *not* because minorities are explicitly excluded from white neighborhoods. Instead, multiple factors combine to sustain segregation and undermine the stability of the mixed neighborhoods many Americans would prefer. One of these factors is the disparity between whites and minorities in incomes and wealth. Whites on average have higher incomes and wealth, due in part to past patterns of discrimination and segregation, and can afford to live in neighborhoods that are out of reach for many minorities. Economic differences, however, do not account for most of the residential segregation that remains today; if households were distributed across neighborhoods entirely on the basis of income rather than race or ethnicity, levels of segregation would be dramatically lower.<sup>114</sup>

Some people argue that neighborhood segregation today is really a matter of choice—that minorities prefer to live in neighborhoods where their own race or

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UNDERMINING THE AMERICAN DREAM 141-47, 193-96, 202-36 (2004).

111. Eric A. Hanushek et al., *New Evidence About Brown v. Board of Education: The Complex Effects of School Racial Composition on Achievement* 22-27 (Nat'l Bureau of Econ. Research, Working Paper No. 8741, 2002), available at [www.nber.org/papers/w8741.pdf](http://www.nber.org/papers/w8741.pdf).

112. Reynolds Farley et al., *The Residential Preferences of Blacks and Whites: A Four-Metropolis Analysis*, 8 HOUSING POL'Y DEBATE 763, 781 (1997).

113. *Id.* at 786-91.

114. See Camille Zubrinsky Charles, *The Dynamics of Racial Residential Segregation*, 29 ANN. REV. SOC. 167, 176-81 (2003).

ethnicity predominates and therefore choose not to move to white neighborhoods. Indeed, the evidence suggests that the average black person's ideal neighborhood has more blacks compared to the average white person's ideal; most blacks would prefer to live in neighborhoods where their own race accounts for about half the population, rather than 20% to 30%.<sup>115</sup> Thus, when minority homeseekers "choose" a more predominantly minority neighborhood, it may actually be because their information was limited by discrimination, or because they felt unwelcome in the more predominantly white neighborhoods they visited.<sup>116</sup>

Finally, considerable evidence suggests that the fears of white people perpetuate neighborhood segregation, despite the fact that a majority of whites say they want to live in more mixed neighborhoods. Specifically, many white people fear that an influx of minorities into their neighborhood will inevitably lead to a downward spiral of declining property values, rising crime, and white flight. These fears cause them to flee, precipitating the downward spiral they feared and concurrently reinforcing a self-fulfilling prophecy about racial tipping. Similarly, whites avoid moving into neighborhoods that they perceive are becoming increasingly mixed because they fear an influx of more minorities, declining property values, and rising crime. This avoidance by whites of neighborhoods that appear attractive to minority homeseekers results in resegregation and reinforces expectations about racial tipping.<sup>117</sup>

Given the complexity—and subtlety—of the processes sustaining residential segregation in urban America today, how should policymakers respond? The evidence argues for a three-pronged strategy: (1) enforcement—to combat persistent discrimination; (2) education—about the availability and desirability of diverse neighborhoods; and (3) incentives—to encourage and nurture residential diversity. Each of these three components is essential to achieving the full potential of the other two.

The vigor of federal fair housing enforcement has waxed and waned over the last four decades, but has consistently relied too heavily on complaints from victims of discrimination as the trigger for investigation and action. Discrimination today is hard to detect, so much of it goes unrecognized. When homeseekers do suspect discrimination, most feel that taking action is not worth the time and effort it would require. The federal government should provide more funding to support proactive paired testing of real estate agents, rental housing providers, lending institutions, mortgage brokers, and insurance companies in city and suburban communities across the country. This kind of

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115. Marian Krysan & Reynolds Farley, *The Residential Preferences of Blacks: Do They Explain Persistent Segregation?*, 80 SOC. FORCES 937, 949, 969 (2002).

116. *Id.* at 969-70.

117. See Camille Zubrinsky Charles, *Can We Live Together? Racial Preferences and Neighborhood Outcomes*, in *THE GEOGRAPHY OF OPPORTUNITY: RACE AND HOUSING CHOICE IN METROPOLITAN AMERICA* 45, 63, 73-76 (Xavier de Sousa Briggs ed., 2005); Charles, *supra* note 114; Reynolds Farley et al., *Stereotypes and Segregation: Neighborhoods in the Detroit Area*, 100 AM. J. SOC. 750, 776-77 (1994).

testing does not have to meet the scientific standards of research studies, but it should be thoughtfully designed and targeted, and responsibly implemented to detect discrimination that may be prevalent in particular neighborhoods, rental complexes, or companies. Pro-active testing can reveal discriminatory practices that would otherwise go unpunished. Moreover, when housing providers know that testing is ongoing, they are more likely to comply with the law.

Enforcement alone is not enough; discrimination is no longer the primary barrier to residential mixing. In most metropolitan areas today, a substantial number of neighborhoods, at a range of income levels, are racially and ethnically diverse. However, many homeseekers—both minority and white—are likely to be more familiar with neighborhoods where their race predominates and may be doubtful about the viability or openness of more diverse communities. A public education campaign, potentially in conjunction with an easily accessible information clearinghouse highlighting the existence and assets of racially diverse neighborhoods, could help overcome fears and stereotypes among both minority and white homeseekers. This kind of public information effort could be conducted by a local fair housing organization or by a metropolitan housing counseling center, using a local Community Development Block Grant (“CDBG”)<sup>118</sup> or supplemental Fair Housing Initiatives Program (“FHIP”) funding.

The third essential prong in a meaningful fair housing strategy for the twenty-first century requires explicit incentives that encourage both minority and white homeseekers to make pro-integrative moves and also nurture the viability and stability of diverse neighborhoods. Examples of such incentives include: enhanced downpayment assistance or low-interest loans for homebuyers who move to a neighborhood where their race or ethnicity does not predominate; equity insurance programs that guarantee homeowners in diversifying neighborhoods a reasonable sales price in the future if they remain in their homes today; and targeted enhancements to school quality, police protection, streetscapes, or parks and recreational facilities in neighborhoods that are racially or ethnically mixed. These types of incentives and investments are needed to short-circuit the self-fulfilling prophecy of racial tipping and disinvestment that currently undermines the stability of diverse neighborhoods. However, they could generate political opposition, and should therefore be carefully framed to make it clear that no homeseeker is required to make a pro-integrative move and that whites and minorities alike can qualify for a “bonus” if and when they choose diversity.

The last four decades have witnessed substantial victories in the battle against housing discrimination and residential segregation. Today, however, discrimination continues to limit choices for people of color, and too many of us

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118. The federal government currently requires jurisdictions that receive CDBG funds to conduct an analysis of impediments to fair housing and to fund activities that address these impediments. U.S. DEP’T OF HOUS. & URBAN DEV., FAIR HOUSING PLANNING GUIDE (1996), <http://www.hud.gov/offices/fheo/images/fhpg.pdf>; U.S. Dep’t of Hous. & Urban Dev., Promoting Fair Housing, <http://www.hud.gov/offices/fheo/promotingfh.cfm> (last visited July 5, 2008).

live in neighborhoods that are less diverse and inclusive than we would prefer. Because the dynamics that sustain segregation today are complex and subtle, our strategies for overcoming them must become more nuanced and comprehensive, including continuous monitoring and stepped-up enforcement to detect and penalize discrimination, expanded information and education about the availability and vitality of inclusive neighborhoods, and explicit incentives to counteract prevailing fears and stereotypes about the instability of racially and ethnically mixed communities. The federal government should take the lead in making this three-pronged strategy a reality, providing money and leadership to support initiatives by local governments and nonprofit organizations, so that we can achieve the vision of free and fair housing choices.