


2013

# A Short-Term Solution: Addressing How Inner-City Children Can Overcome the Consequences of Housing Segregation and Education Segregation

Jacqueline Pena  
*Seton Hall Law*

Follow this and additional works at: [http://scholarship.shu.edu/student\\_scholarship](http://scholarship.shu.edu/student_scholarship)

 Part of the [Education Law Commons](#), and the [Property Law and Real Estate Commons](#)

---

## Recommended Citation

Pena, Jacqueline, "A Short-Term Solution: Addressing How Inner-City Children Can Overcome the Consequences of Housing Segregation and Education Segregation" (2013). *Law School Student Scholarship*. Paper 116.  
[http://scholarship.shu.edu/student\\_scholarship/116](http://scholarship.shu.edu/student_scholarship/116)

# A SHORT-TERM SOLUTION: ADDRESSING HOW INNER-CITY CHILDREN CAN OVERCOME THE CONSEQUENCES OF HOUSING SEGREGATION AND EDUCATION SEGREGATION

Jacqueline Peña

## I. Introduction

“Zip code is destiny.”<sup>1</sup> New Jersey Governor Chris Christie poignantly stated the reality of residential segregation and educational disparities at the Hispanic National Bar Association Midyear Conference when speaking about education. Residential segregation often causes school segregation.<sup>2</sup> The framework of the United States public schools system is based on neighborhood schools and requires that children attend public school in the neighborhood in which they live.<sup>3</sup> As a result of de facto segregation in housing, disparity in education remains at the forefront of racial inequality today due to these “neighborhood” schools. Racially segregated minority neighborhoods tend to be neighborhoods with high poverty levels.<sup>4</sup> Accordingly, schools in these neighborhoods are also likely to have high poverty levels with fewer education resources.<sup>5</sup> Schools with concentrated numbers of minority students tend to be relatively low quality schools with poorer students than majority white schools.<sup>6</sup> Therefore, many poor children of color are not afforded an education equal to that of their white, middle-class

---

<sup>1</sup> Governor Chris Christie, Address at the Hispanic National Bar Association Corporate Counsel Midyear Conference Gala (March 31, 2012).

<sup>2</sup> Maurice E.R. Munroe, *Perspective: Unamerican Tail: of Segregation and Multicultural Education*, 64 ALB. L. REV. 241, 251 (2000).

<sup>3</sup> *Id.*

<sup>4</sup> Min Zhou and John R. Logan, *Increasing Diversity and Persistent Segregation: Challenges of Educating Minority and Immigrant Children in Urban America*, in *THE END OF SEGREGATION* 177, 187 (Stephen J. Caldas & Carl L. Bankston, III eds., 2003).

<sup>5</sup> Erica Frankenberg, *School Integration – The Time is Now*, in *LESSONS IN INTEGRATION: REALIZING THE PROMISE OF RACIAL DIVERSITY IN AMERICAN SCHOOLS* 7, 16 (Erica Frankenberg & Gary Orfield eds., 2007).

<sup>6</sup> Zhou & Logan, *supra* note 4, at 187; Michelle Adams, *Radical Integration*, 94 Calif. L. Rev. 261, 280-81 (2006).

counterparts because of the racially segregated neighborhoods they live in and because of the segregated neighborhood public schools they must attend.<sup>7</sup>

Policymakers have devoted significant resources to resolve racial disparities in education but educational disparities will likely continue unless we end residential segregation. Ending residential segregation will prove difficult because we live in a hierarchical society defined by social class.<sup>8</sup> In the United States, social class is characterized by income and race.<sup>9</sup> Social class determines where a person lives and as a result, our neighborhoods today are largely segregated by income and race.<sup>10</sup> Research from the last forty years has shown that neighborhood segregation has been consistently high.<sup>11</sup> Professor Douglas Massey and Professor Nancy A. Denton coined the term “hypersegregation” to describe urban areas that are “highly isolated within very racially homogeneous neighborhoods.”<sup>12</sup> Because the quality of public school education a child receives is based on where that child lives, minority children, who more often than not are living in these hypersegregated neighborhoods, will continue to receive a subpar education in our failing urban education systems as long as residential segregation persists. Residential segregation serves as the root of the problem because a child’s education is based on more than just the school – a proper education requires exposure to a well-rounded environment. Poor children who live in an inner-city, racially segregated neighborhood and who thus attend a segregated public school, do not receive that exposure.

---

<sup>7</sup> Munroe, *supra* note 2, at 252.

<sup>8</sup> RICHARD ROTHSTEIN, CLASS AND SCHOOLS: USING SOCIAL, ECONOMIC, AND EDUCATIONAL REFORM TO CLOSE THE BLACK-WHITE ACHIEVEMENT GAP 2 (2004).

<sup>9</sup> *Id.*; Frankenburg, *supra* note 5, at 12 (stating that race is defined as a social construct that is formed and sustained through structures of hierarchy in our society).

<sup>10</sup> John A. Powell, Executive Director, Institute on Race and Poverty, Address at In Pursuit of a Dream Deferred: Linking Housing and Education Forum, Integrated Neighborhoods and Schools: Getting from Here to There (Apr. 22, 1995).

<sup>11</sup> Nancy A. Denton, *The Persistence of Segregation: Links between Residential Segregation and School Segregation*, 80 MINN. L. REV. 795, 795-96 (1996).

<sup>12</sup> *Id.* at 798.

Segregated neighborhood schools in urban areas are not equal to suburban schools because they mirror the racial and poverty-based segregation of their community.<sup>13</sup> The link between “racial segregation and concentrated poverty in the nation’s schools is a key reason for the educational differences between segregated and integrated schools.”<sup>14</sup> Black and Hispanic students attend schools that are 65% and 66% poor, respectively, whereas white students attend schools that are only 30% poor.<sup>15</sup> Studies have shown that children’s educational achievement is undermined and that their educational performance is reduced when they attend high poverty schools whose student population consists of mostly impoverished students.<sup>16</sup>

Children who attend racially segregated and impoverished schools receive an inferior education and the children who attend these schools are minority students. Standardized test results show “achievement gaps” exist between students of different racial and ethnic groups.<sup>17</sup> Evidence has shown that children of color, as a group, consistently underperform at all educational levels compared to their white counterparts.<sup>18</sup> The achievement gap will persist as long as racial residential segregation persists in our neighborhoods. Since residential segregation is an intractable problem, which can be mostly attributed to the legacy of Jim Crow, minority and poor children need a temporary solution to racial housing segregation and the consequential subpar education they receive at minority-dominated and impoverished schools. Our children cannot wait for complete integration to resolve these long-standing issues in our society.

---

<sup>13</sup> Gary Orfield, Professor of Educ. and Soc. Pol’y, Harvard University, *In Pursuit of a Dream Deferred: Linking Housing and Education, Desegregation, Resegregation, and Education* (Apr. 22, 1995).

<sup>14</sup> GARY ORFIELD, SUSAN E. EATON, & THE HARVARD PROJECT ON SCHOOL DESEGREGATION, *DISMANTLING DESEGREGATION: THE QUITE REVERSAL OF BROWN V. BOARD OF EDUCATION* 53 (1996).

<sup>15</sup> Zhou & Logan, *supra* note 4, at 185.

<sup>16</sup> Zhou & Logan, *supra* note 5, at 185,186.

<sup>17</sup> Teresa Moore, Esq., Legal Consultant, Institute on Education, Law and Policy - Rutgers University, *A Demographic Portrait of K-12 Academic Achievement, A Journey through the Pipeline: Identifying Challenges and Improving Diversity and Inclusion in the Legal Profession* (Mar. 15, 2012).

<sup>18</sup> Jamie Gullen, *Colorblind Education Reform: How Race-Neutral Policies Perpetuate Segregation and Why Voluntary Integration Should be Put Back on the Reform Agenda*, 15 U. PA. J.L. & SOC. CHANGE 251, 252 (2012).

This paper proposes that while we wait for complete integration, we must take incremental and reasonable steps to help our children by supporting and funding after-school enrichment programs that target youth living in racially segregated areas so that minority and low-income children do not continue to fall behind. This paper proceeds as follows. Part II explains the historical context of how Jim Crow laws led to de facto racial segregation in housing, which in turn leads to school segregation. Part III explores the specific educational ramifications de facto housing segregation has on children in their early education up through their professional lives. This part argues that there is a significant and powerful link between housing segregation, educational segregation and educational disparities. Part IV describes scholars', courts' and lawmakers' responses to housing segregation and educational disparity amongst inner city and minority youth. This part looks at scholars', courts' and lawmakers' call for racial integration as a remedy. Part V argues that the current goal of complete racial integration is misguided and unrealistic because people cannot be forced to integrate. This part recognizes the stigma and social aspects of racial segregation and how integration fails to address those issues. Part VI posits that scholars, courts and lawmakers should focus on funding after-school programs that target urban and poor youth and teach them the critical academic skills needed to succeed in high school, college and beyond. Additionally, such programs teach students the critical social skills of engaging with people from different socio-economic backgrounds so that they can overcome the racial stigma associated with segregation.

## II. De Facto Housing Segregation and Segregation in Education

This part shows that racial segregation is engrained in American history and that the effects of institutionalized segregation are still evident in housing and education. The long-standing practice of de jure segregation in this country had led to the de facto segregation that

exists today, particularly in housing and education.<sup>19</sup> This part will show the consequences segregation in housing has had on schools, namely that racially segregated neighborhoods inherently lead to racially segregated schools.

A. The Legacy of Jim Crow Laws

The Jim Crow<sup>20</sup> era, which spanned from the 1870's through the 1950's, segregated our nation and although those laws have been abolished, its effects are still very much alive.<sup>21</sup> Jim Crow laws institutionalized segregation of African-Americans by requiring separate housing, schools, public transportation, and all other public accommodations for blacks and whites.<sup>22</sup> States and municipalities were allowed to impose legal punishments on people for comingling with members of another race, namely whites associating with blacks.<sup>23</sup> Jim Crow was an implementation of white supremacy through laws and custom that was most prominent in the United States South, but also spread to a substantial part of the entire country.<sup>24</sup> Jim Crow laws were a way for whites to assert their supremacy by subordinating blacks politically, by disenfranchising blacks; and socially, by implementing a policy of segregation in areas of everyday life such as housing and schools.<sup>25</sup>

One of the enduring legacies of the Jim Crow era is illustrated in the de facto residential segregation of today's neighborhoods. At around the same time that the government started

---

<sup>19</sup> Paul M. Ong & Jordan Rickles, *The Continued Nexus between School and Residential Segregation*, 11 ASIAN L.J. 260, 260 (2004).

<sup>20</sup> See Virginia E. Hench, *The Death of Voting Rights: The Legal Disenfranchisement of Minority Voters*, 48 CASE W. RES. L. REV. 727, 731, n.4 (1998) (The term "Jim Crow" was the title of a song performed as a part of a minstrel show in the 1830's, where white actors painted their faces black with charcoal and parodied blacks in a derogatory way.).

<sup>21</sup> James W. Fox, Jr., *Imitations of Citizenship: Repressions and Expressions of Equal Citizenship in the Era of Jim Crow*, 50 HOW. L.J. 113, 117 (2006).

<sup>22</sup> Darlene C. Goring, *Private Problem, Private Solution: Affirmative Action in the 21<sup>st</sup> Century*, 33 AKRON L. REV. 209, 223 n.36 (2000).

<sup>23</sup> National Park Service, Jim Crow Laws, [http://www.nps.gov/malu/forteachers/jim\\_crow\\_laws.htm](http://www.nps.gov/malu/forteachers/jim_crow_laws.htm) (last visited Apr. 31, 2012).

<sup>24</sup> Fox, *supra* note 21, at 128.

<sup>25</sup> Goring, *supra* note 22, at 223 n.36.

enforcing *Brown v. Board of Education*, suburban developments started springing, which allowed whites to escape the city into the suburbs.<sup>26</sup> Because of this country's history of racial segregation, scholars have posited that neighborhoods that are racially diverse are "tipping" from one racial majority (whites) to another (non-whites).<sup>27</sup> This phenomenon is generally known as "white flight."<sup>28</sup> When blacks and other minorities start moving into middle-class neighborhoods there is a mass exodus of the white residents.<sup>29</sup> Once the white homeowners leave the neighborhood, demand for houses in the neighborhood falls and poorer black families are able to move in behind the middle-class black families.<sup>30</sup> For example, between 1990 and 2000, two-thirds of neighborhoods that were "racially diverse" but majority white tipped and become majority-minority (non-white).<sup>31</sup> Notably, between 1990 and 2000 those neighborhoods that were majority white with neither blacks nor Hispanics dominating the minority population remained majority white.<sup>32</sup>

Today, many neighborhoods remain segregated and are either predominantly black or predominantly white.<sup>33</sup> For the most part, levels of residential segregation have essentially remained constant over the last several decades, meaning that areas have remained very segregated.<sup>34</sup> In metropolitan and city areas, where most minorities live, segregation levels have remained relatively unchanged since the 1980's.<sup>35</sup> Professor Massey and Professor Denton coined the term "hypersegregation" to reflect the profound levels of residential segregation,

---

<sup>26</sup> Denton, *supra* note 11, at 804.

<sup>27</sup> Margery Austin Turner, *Limits on Housing and Neighborhood Choice: Discrimination and Segregation in U.S. Housing Markets*, 41 IND. L. REV. 797, 808-09 (2008).

<sup>28</sup> Munroe, *supra* note 2, at 253.

<sup>29</sup> Michelle Adams, *Radical Integration*, 94 CALIF. L REV. 261, 284 (2006).

<sup>30</sup> *Id.*

<sup>31</sup> Austin Turner, *supra* note 27, at 809.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.* at 807; Denton, *supra* note 11, at 814.

<sup>34</sup> Denton, *supra* note 11, at 801.

<sup>35</sup> Zhou & Logan, *supra* note 4, at 182.

particularly of African-Americans.<sup>36</sup> Hypersegregation looks to five dimensions of segregation, namely evenness, isolation, clustering, centralization, and concentration.<sup>37</sup> With regards to African-Americans specifically, hypersegregation means that “they are unevenly distributed across neighborhoods; they are isolated within very racially homogenous neighborhoods; their neighborhoods are clustered to form contiguous ghettos, centralized near central business districts and away from suburban schools and jobs, and concentrated in terms of population density and spatial area compared to white neighborhoods.”<sup>38</sup>

The magnitude of residential segregation of minorities is most evident in large cities. Segregation of minorities in the 50 largest metropolitan areas in the country remains very high and many areas remain hypersegregated.<sup>39</sup> By definition, these highly segregated areas have concentrated isolation and poverty.<sup>40</sup> For example, the Index of Dissimilarity (“D”) – which indicates the percentage of minority group members who would have to move in order to achieve complete integration – shows that black and Hispanic segregation from whites mainly ranges from extremely high to moderately high.<sup>41</sup> The Index of Dissimilarity ranges from 0 to 100, with 100 being the highest.<sup>42</sup> Out of the 50 largest metropolitan areas studies, five areas have extremely high segregation with black-white D scores over 80.<sup>43</sup> Twenty-eight areas have very high segregation with black-white D scores between 60 and 79, and eleven areas have moderately high segregation with D scores between 50 and 59.9.<sup>44</sup> Hispanics are similarly

---

<sup>36</sup> Denton, *supra* note 11, at 798 (citing Douglas S. Massey & Nancy A. Denton, *Hypersegregation in U.S. Metropolitan Areas: Black and Hispanic Segregation Along Five Dimensions*, 26 DEMOGRAPHY 373, 373 (1989)).

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> Zhou & Logan, *supra* note 4, at 182.

<sup>40</sup> Denton, *supra* note 11, at 798.

<sup>41</sup> Zhou & Logan, *supra* note 4, at 182.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*



segregated from whites.<sup>45</sup> Five out of the 50 largest metropolitan areas have very high segregation with Hispanic-white D scores higher than 60.<sup>46</sup> Sixteen other areas have moderately high segregation with Hispanic-white D scores between 50 and 59.9.<sup>47</sup>

While the statistics show the clear racial divide in neighborhoods, residential segregation is not just linked to race. Because we live in a society defined by race and income, residential segregation is very much linked to the combination of race and economic status.<sup>48</sup> Professor Margery Austin Turner defined the distinction between wealthy whites and poor minorities as “exclusive” versus “isolated.”<sup>49</sup> Exclusive neighborhoods consist of affluent and wealthy, native-born whites and isolated neighborhoods consist of lower income minorities and immigrants.<sup>50</sup> A considerable number of neighborhoods remain either exclusive or isolated.<sup>51</sup> A 2000 Census study done by the Urban Institute found that 23.8% of tracts in the 100 largest metropolitan areas are racially exclusive with a population that was more than 90% white.<sup>52</sup> The study also found that 16.4% of tracts are economically exclusive with high-income households predominating and a population of less than 10% who were low-income.<sup>53</sup> The Urban Institute study found that racial exclusion coincided with economic exclusion because nearly all economically exclusive neighborhoods excluded blacks and the majority of neighborhoods in which minorities predominated were economically isolated.<sup>54</sup>

---

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> ROTHSTEIN, *supra* note 8, at 2.

<sup>49</sup> Austin Turner, *supra* note 27, at 808.

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> 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).

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

Because of race and income, minority neighborhoods face more challenges in gaining equitable resource allocation than a similarly situated all-white neighborhood.<sup>55</sup> Studies have shown that middle-class black families living in racially segregated neighborhoods have less wealth accumulation than their white counterparts earning the same income, partly because their houses do not appreciate in value at the same rates that houses owned by whites do.<sup>56</sup> Thus, living in these residentially segregated areas has a negative financial impact on minorities. Even when middle-class black families try to integrate into middle-class white neighborhoods, the phenomenon of white flight occurs and the once middle-class white neighborhood eventually evolves into a black neighborhood.

While the connection between race, income and residential segregation does lead to negative financial consequences for minorities, the legacy of Jim Crow is deeply engrained and its social implications are more profound. Regardless of individual social class, research has shown that some members of the black community have a perception that whites feel resentment towards blacks.<sup>57</sup> Therefore, African-Americans may feel unwelcomed or isolated in white suburbs.<sup>58</sup> This feeling of isolation has resulted in what has been referred to as black self-segregation where a black family may prefer to live in a black neighborhood.<sup>59</sup> Because blacks may feel isolated or unwelcomed in white neighborhoods, they may choose to live in black neighborhoods out of default or retreat, and the need to escape the racism present in larger society.<sup>60</sup> Residential segregation is a byproduct and a result of racism<sup>61</sup> and it has now become

---

<sup>55</sup> Denton, *supra* note 11, at 814.

<sup>56</sup> *Id.* at 810.

<sup>57</sup> John O. Calmore, *Race/ism Lost and Found: The Fair Housing Act at Thirty*, 52 U. MIAMI L. REV. 1067, 1107 (1998).

<sup>58</sup> *Id.*

<sup>59</sup> *Id.* at 1107-08.

<sup>60</sup> *Id.* at 1109; Denton, *supra* note 11, at 808.

<sup>61</sup> Denton, *supra* note 11, at 811.

effectively institutionalized in that its own victims see “self-segregation” as a better option than racial integration.<sup>62</sup>

While Jim Crow laws are no longer in place, because of the social structure of segregation, African-Americans and other minorities cannot realistically reside wherever they choose.<sup>63</sup> Residential segregation has sociological implications and thus places de facto limitations on minorities. As the next section will discuss, residential segregation has produced profoundly entrenched effects on those living in segregated minority communities, particularly minority children living in urban areas. Studies have shown that the a black or Latino child is likely to live in a neighborhood where members of their own racial group comprise at least fifty percent of the population.<sup>64</sup> The next section will show how residential segregation has significant effects on minority children because residential segregation leads to school segregation.

#### B. Segregated and Unequal Schools

This section will illustrate that residential segregation has a particularly profound effect on schoolchildren because the American public school system bases the decision of what public school a child attends on the neighborhood that child lives in.<sup>65</sup> Residential segregation will lead to racially segregated schools as long as the public school system continues to be defined by neighborhood schools.<sup>66</sup> For blacks and Latinos, higher residential segregation leads to higher school segregation.<sup>67</sup> In a recent study<sup>68</sup> done by Paul Ong and Jordan Rickles, between 1990

---

<sup>62</sup> *Id.* at 795, 811.

<sup>63</sup> *Id.* at 811.

<sup>64</sup> *Id.*

<sup>65</sup> *Id.* at 814.

<sup>66</sup> *Id.*

<sup>67</sup> Ong & Rickles, *supra* note 19, at 266.

<sup>68</sup> *Id.* at 263 (The dissimilarity index used in this case ranges from 0 to 100, with 0 being perfect integration and 100 being complete segregation. The dissimilarity index indicates the percentage of one racial group that would have to relocate in order to be evenly distributed with another racial group in a city area.).

and 2000, on a scale of 0 to 100, with 100 being complete segregation, the average level of school and residential segregation was in the mid 60's to 70's for African Americans and in the 50's for Latinos.<sup>69</sup>

School segregation is increasing and a recent study has shown that children were more segregated in the year 2000 than in 1990.<sup>70</sup> The student population in more than one-third of the 100 largest schools districts in the United States is more than seventy-five percent non-white.<sup>71</sup> The student population in seven of the ten largest school districts is 75% non-white.<sup>72</sup> Further illustrating the point, studies have shown that white children attend schools that are over 78% white and black children attend schools that are 57% black.<sup>73</sup> Similarly, Hispanic children attend schools that are 57% Hispanic.<sup>74</sup>

The effects of residential segregation also link race and economic class as evidenced by the segregation in our public schools today. There is a sharp contrast in the racial and economic class composition of the schools white students attend as compared to their minority counterparts.<sup>75</sup> Schools with high concentrations of black and Latino students are more likely to be high-poverty schools.<sup>76</sup> In contrast, it is common knowledge that the more prestigious public schools that offer a higher quality education are in middle-class, upper middle-class and upper-class neighborhoods.<sup>77</sup> The connection between race and poverty is such that on a scale of 0 to 1.00, with 1.00 being the highest, the correlation between race and exposure to poverty is 0.86 in

---

<sup>69</sup> *Id.* at 263.

<sup>70</sup> *Id.* at 268.

<sup>71</sup> Gullen, *supra* note 18, at 252.

<sup>72</sup> *Id.* at 254.

<sup>73</sup> Zhou & Logan, *supra* note 4, at 183.

<sup>74</sup> *Id.*

<sup>75</sup> *Id.* at 185.

<sup>76</sup> Gullen, *supra* note 18, at 252.

<sup>77</sup> John A. Powell, *Living and Learning: Linking Housing and Education*, 80 MINN. L. REV. 749, 755-56 (1996).

calculating the black-white disparity and 0.81 for Hispanics.<sup>78</sup> In other words, for black and Hispanic students, the degree of concentration of black and Hispanic students in a school is very close to the degree of concentration of impoverished students in a school.<sup>79</sup> As such, a student in a segregated, mostly minority school is more likely to be in a high-poverty school than a student attending a majority white school.<sup>80</sup>

Because the effects of racial segregation are most severe in distressed city neighborhoods where many impoverished minorities are concentrated, the children living in these racially segregated, low-income areas are forced to attend failing, high-poverty public schools.<sup>81</sup> Schools serving Hispanic, black and low-income children are more likely to have higher student/teacher ratios and Hispanic, black and low-income students are more likely to be assigned to least effective teachers.<sup>82</sup> High schools with high numbers of minority students offer significantly fewer high-level courses.<sup>83</sup> Schools with higher non-minority enrollment offer about twice as many advanced placement courses as compared to higher minority schools.<sup>84</sup> Similarly, high schools with a majority high-income student population offered four times the number of sections of calculus per student as schools with a majority low-income student population.<sup>85</sup> Therefore, even if minority students living in these neighborhoods work hard, they are at a severe disadvantage due to the poor quality of education offered to them.<sup>86</sup> Consequently, youth from inner city and minority communities earn lower grades and are less likely to go on to

---

<sup>78</sup> Zhou & Logan, *supra* note 4, at 186.

<sup>79</sup> *Id.*

<sup>80</sup> Orfield & Eaton, *supra* note 14, at 55.

<sup>81</sup> Austin Turner, *supra* note 27, at 811.

<sup>82</sup> Sarah E. Redfield, *Hispanics and the Pipeline to the Legal Profession AKA Lawyers don't do Math*, 3 HISP. NAT'L B. ASS'N J.L. & POL'Y, 1, 52 (2011).

<sup>83</sup> *Id.* at 44.

<sup>84</sup> *Id.* at 49.

<sup>85</sup> *Id.* at 44-45.

<sup>86</sup> Austin Turner, *supra* note 27, at 811-12.

college as compared to their counterparts from more affluent and white neighborhoods that have more educational resources at their disposal.<sup>87</sup>

On the other hand, integrated schools not only lead to student educational achievement, but they can also produce positive social outcomes.<sup>88</sup> Some studies have shown that children who attend integrated schools are more adept at studying and collaborating in diverse settings and are therefore more comfortable and confident about working in diverse settings as an adult.<sup>89</sup> Additionally, research has also shown that low-income, urban children's educational performance increased when they are relocated to the suburbs.<sup>90</sup> In sum, neighborhoods are a very important starting point of a child's opportunities beginning with the determination of the quality of education that child will receive. The next section will show how housing segregation directly impacts the subpar education minority children receive and the resultant educational and social disparities.

### III. Consequences of Segregation

This section argues that de facto housing segregation leads to inequity in the quality of education urban and minority youth receive in preparation for their future. Residential racial segregation leads to minorities' educational disparities and social disadvantages.<sup>91</sup> This section will discuss the numbers –the studies that have shown the educational disparities between white students and non-white students and between middle-class, suburban children and poor, inner-city children. The section will then conclude with a discussion of the social causes and effects of segregation on poor, minority students. The focus will be on the role of parents and schoolchildren's peers in shaping how children develop academically and socially.

---

<sup>87</sup> *Id.* at 812.

<sup>88</sup> Ong & Rickles, *supra* note 19, at 261.

<sup>89</sup> *Id.*

<sup>90</sup> *Id.*

<sup>91</sup> Austin Turner, *supra* note 27, at 811.

A. Educational Disparities and Social Exposure

Neighborhoods are more than just places we live; they are a crucial part of the structures that shape people's lives.<sup>92</sup> Regarding children specifically, a child's neighborhood will determine the quality of education he or she receives and the types of opportunities that child will be afforded.<sup>93</sup> Minority children who, for the most part, live in racially segregated minority neighborhoods and attend segregated neighborhood schools have limited opportunities.<sup>94</sup> Living in a segregated low-income, minority neighborhood necessarily means that child attends a subpar neighborhood school.<sup>95</sup> Research has shown that "achievement gaps" exist between students of different racial and ethnic groups,<sup>96</sup> and that children of color, as a group, consistently underperform at all educational levels compared to their white counterparts.<sup>97</sup> The numbers for educational disparities are especially alarming for low-income minority children, who due to race, family income, parenting, family circumstances and limited resources, begin school at a disadvantage as compared to white and middle-class children.<sup>98</sup> On average, lower-class and minority children will achieve less, even in the best schools.<sup>99</sup> Minority children who live in racially segregated urban areas are less prepared when they start school and they continue to fall behind as their academic careers progress<sup>100</sup> because they lack the positive reinforcement white, middle-class children enjoy from their parents, their neighborhoods and their schools.

In education, we clearly see the connection between race, social class and segregation. Before starting school, a child's parents and the child's daily environment shape his or her early

---

<sup>92</sup> Denton, *supra* note 11, at 810.

<sup>93</sup> *Id.*

<sup>94</sup> Zhou & Logan, *supra* note 4, at 182.

<sup>95</sup> *Id.* at 185.

<sup>96</sup> Moore, *supra* note 17.

<sup>97</sup> Jamie Gullen, *supra* note 18, at 252.

<sup>98</sup> George Farkas, *Racial Disparities and Discrimination in Education: What Do We Know, How Do We Know It, and What Do We Need to Know?*, 105 TCHRS. C. REC. 1119, 1121 (2003).

<sup>99</sup> ROTHSTEIN, *supra* note 8, at 14

<sup>100</sup> Redfield, *supra* note 82, at 20.

learning. Parents of different social classes have different parenting styles and ways of communicating with their children.<sup>101</sup> Data has shown that more highly educated and thus higher social class parents engage in educational activities with their children and so those children are better prepared when starting school.<sup>102</sup> Children raised in a higher social class home start school with more skills than children raised in lower-income homes.<sup>103</sup> Generally, parents who are professionals raise children who will have more inquisitive attitudes towards what they are taught in school as compared to children of working-class parents.<sup>104</sup>

Furthermore, more educated parents read to their children on a daily basis when their children are pre-school aged.<sup>105</sup> In contrast, children of parents with a high school diploma or less generally do not benefit from daily reading.<sup>106</sup> Similarly, white parents are more likely to read to their children in the pre-school years than are black parents.<sup>107</sup> Reading to children during their pre-school years is imperative for a child's educational development and there seems to be a gap between white, middle class families and black, lower-income families.<sup>108</sup> On average, even if a middle-class child and a low-income child receive a comparable education, a middle-income child who was read to in his or her preschool years, will have higher lifetime achievement than the low-income child who was not read to.<sup>109</sup> Therefore, the chain of events is then started and white, middle-class children have a head start over low-income, minority children.

---

<sup>101</sup> ROTHSTEIN, *supra* note 8, at 2.

<sup>102</sup> Redfield, *supra* note 82, at 25.

<sup>103</sup> ROTHSTEIN, *supra* note 8, at 15.

<sup>104</sup> *Id.* at 2.

<sup>105</sup> *Id.* at 19.

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> *Id.*



The difference in academic potential between different social classes and race is apparent by the time children are three years old.<sup>110</sup> The educational disparities between white and minority students start at the pre-school level and have lasting consequences.<sup>111</sup> Research has shown that those children who develop an early lead in the learning process will likely continue to increase that lead.<sup>112</sup> Those students who fall behind early are likely to fall even further behind as they continue their education.<sup>113</sup> In particular, studies have shown minority children's vocabulary is disproportionately more limited than that of white children.<sup>114</sup> The oral vocabulary gap between a white middle class child and a low-income African-American child is very large and is evident by the time the child is 36 months of age.<sup>115</sup> By the time a black child reaches the age of six, he has the vocabulary score of a five-year old white child.<sup>116</sup>

When starting kindergarten or first grade, there is a pronounced school readiness gap between African-American, Latino and American Indian children and white children, which includes "oral language, prereading, and premathematics skills, lower general knowledge, and behavior less well suited to the school's learning environment."<sup>117</sup> However, a significant number of studies have also shown that school readiness gaps disappear after controls for social class background.<sup>118</sup> Therefore, the impact of pre-school education, mainly administered by a child's parents, seems to be driven by economic class. One of the main indicators of a person's social class is where that person lives.<sup>119</sup> Higher income parents and their children live in

---

<sup>110</sup> *Id.* at 10.

<sup>111</sup> Betty Hart & Todd R. Risley, *The Early Catastrophe: The 30 Million Word Gap by Age 3*, AMERICAN EDUCATOR, Spring 2003.

<sup>112</sup> Farkas, *supra* note 98, at 1121.

<sup>113</sup> *Id.*

<sup>114</sup> Hart & Risley, *supra* note 111.

<sup>115</sup> Farkas, *supra* note 98, at 1122.

<sup>116</sup> *Id.*

<sup>117</sup> *Id.* at 1121.

<sup>118</sup> *Id.*

<sup>119</sup> Powell, *supra* note 10.

“exclusive” neighborhoods, which are majority white neighborhoods that generally exclude blacks and other minorities.<sup>120</sup> This illustrates that racial segregation, particularly that due to residential segregation and its intrinsic social class divide, is at least partly the cause of the education gap at the pre-school age.

At the elementary school level, studies reveal that minority students are at below average reading levels at higher rates than white students.<sup>121</sup> Since reading is fundamental to successfully learning all other subjects, the fact that minority and low-income children begin school at a disadvantage as compared to white and middle-income children, explains their lower rate of achievement later on in their education.<sup>122</sup> The National Assessment of Education Progress (“NAEP”), which gathers information on public school students’ test scores in different subject areas, found that from 2007 to 2009 there was a 21-point gap in mathematics scores between fourth-grade White students and Hispanic students and a 26-point gap in mathematics scores between eighth-grade white students and Hispanic students.<sup>123</sup> In 2009, the reading gap between White and Hispanic students was 25 points and 24 points for fourth and eighth graders, respectively.<sup>124</sup> In 2004, the reading gap between White and Black students was 23 points for nine-year old students and 26-points for thirteen-year-old students.<sup>125</sup> For the same year, the mathematics gap between white and black students was 26 points at age 9 and 21 points at age 13.<sup>126</sup>

---

<sup>120</sup> Austin Turner & Fenderson, *supra* note 52.

<sup>121</sup> Sarah E. Redfield, *The Educational Pipeline to Law School-Too Broken and Too Narrow to Provide Diversity*, 8 PIERCE L. REV. 347, 359 (2010).

<sup>122</sup> Farkas, *supra* note 38, at 1123.

<sup>123</sup> Moore, *supra* note 17.

<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

<sup>126</sup> *Id.*

Furthermore, the curriculum in elementary schools is largely determined by the behavior that the children and parents bring to the school.<sup>127</sup> Here, again, race, income and residential segregation play an important role. Teachers and school administration develop teaching plans and set expectations of students based on the teacher's interactions with the student's parent and what the teacher thinks the child can academically achieve.<sup>128</sup> Teachers who teach minority students in inner-city schools have lower expectations of students.<sup>129</sup> These lower expectations are directly related to where the children live and the school they are attending. A child's residence and the school he or she attends are directly related race and income.<sup>130</sup> Furthermore, because minority and low-income children do enter their neighborhood elementary school with lesser skills than their white, middle-income counterparts, a less demanding curriculum is set for them to begin with and they are further disadvantaged starting their very first day of school.<sup>131</sup> Therefore, instead of trying to neutralize the educational disparity early on when the low-income child begins school, the public school system further institutionalizes segregation and disparity by teaching young, minority students below the level their white counterparts are taught, simply based on where they live and what school they attend.

While studies have found that the educational gap between poor, minority children and white, middle-class children is evident in preschool-aged children and reinforced through school curriculum, research has found that the continued education gap increase is mostly attributable to differential learning during after-school hours and in the summer months.<sup>132</sup> Consequently, children living in residentially segregated neighborhoods start elementary school steps behind

---

<sup>127</sup> Farkas, *supra* note 98, at 1123.

<sup>128</sup> *Id.*

<sup>129</sup> Redfield, *supra* note 82, at 55.

<sup>130</sup> Powell, *supra* note 10.

<sup>131</sup> Farkas, *supra* note 98, at 1123.

<sup>132</sup> ROTHSTEIN, *supra* note 8, at 10.

white suburban children and they continue to fall behind when they are out of school.<sup>133</sup> Low-income children “fall back” over the summer whereas middle-income children’s knowledge and skills continue to increase over the summer.<sup>134</sup> The reason for this disparity is that families are the sole influence for a child’s education during after-school hours and in the summer months.<sup>135</sup> As such, a child’s out-of-school education is based on their parent’s resources. Race, income and residential segregation demonstrate why the gap increases during out-of-school hours.

The out-of-school achievement gap is attributable to parents’ efforts towards their children. First, as demonstrated above, higher-income who live in “exclusive” suburbs place a high priority on reading for leisure and so higher-income children read more than their poor, minority counterparts.<sup>136</sup> As such, the average proficiency of a middle-class child will be greater than a poor child because middle-class children read during the summer.<sup>137</sup> In addition, middle-class families that live in the suburbs are able to afford after-school and summer activities such as sports, drama, and music lessons.<sup>138</sup> Such activities outside of school are proven to build self-confidence in children.<sup>139</sup> Poor, urban families simply do not have those resources to pay for extracurricular activities and often times these activities are not offered in the inner city.<sup>140</sup> Therefore, inner-city children lack the confidence-building activities that are very much a part of suburban, middle-income children’s lives. These extracurricular activities and the confidence it builds transfers to the classroom - when confronted with a challenging school assignment, a

---

<sup>133</sup> Farkas, *supra* note 98, at 1124.

<sup>134</sup> *Id.*

<sup>135</sup> ROTHSTEIN, *supra* note 8, at 8.

<sup>136</sup> Austin Turner, *supra* note 27, at 808; ROTHSTEIN, *supra* note 8, at 58.

<sup>137</sup> ROTHSTEIN, *supra* note 8, at 58.

<sup>138</sup> *Id.* at 26.

<sup>139</sup> *Id.*

<sup>140</sup> *Id.*

middle-income child has more confidence to tackle the challenge, than does a low-income child.<sup>141</sup>

The effects of residential segregation and the academic and social challenges minority students face continue through high school. High school is a critical point for the development of students' educational opportunities because it prepares them for college.<sup>142</sup> This proves challenging for minority and low-income children because by the time they reach high school, they have dealt with an inferior education for most of their academic careers.<sup>143</sup> It is at this point that minority students are more likely to experience the severe challenges caused by residential segregation and the inferior education they have received for the majority of their lives.<sup>144</sup> Studies have shown that minority students have “fewer qualified teachers, fewer counselors, far less rigorous courses, and markedly less challenging and engaging curricula and materials.”<sup>145</sup> The National Assessment of Education Progress (“NAEP”) and other studies have shown that the average black or Latino high school senior is on the same education level as a white eighth-grader.<sup>146</sup> Studies have also shown that the gap of educational attainment between white high school students and Mexican high school students, for example, exceeded 50 percentage points between 1970 and 1995.<sup>147</sup> High school graduation rates are about 50% for minorities as compared to 75% for whites.<sup>148</sup> Research indicates that high levels of residential segregation lead to higher high school dropout rates among African-Americans, showing the important link

---

<sup>141</sup> *Id.* at 27.

<sup>142</sup> Redfield, *supra* note 82, at 44.

<sup>143</sup> *Id.* at 58.

<sup>144</sup> Redfield, *supra* note 121, at 364.

<sup>145</sup> Redfield, *supra* note 46, at 361-362.

<sup>146</sup> Shavar D. Jeffries, *The Structural Inadequacy of Public Schools for Stigmatized Minorities: The Need for Institutional Remedies*, 34 HASTINGS CONST. L.Q. 1, 16 (2006).

<sup>147</sup> GEORGE VERNEZ, RICHARD A. KROP, & C. PETER RYDELL, CLOSING THE EDUCATION GAP: BENEFITS AND COSTS 7 (1999).

<sup>148</sup> Redfield, *supra* note 121, at 365.

between residential segregation, failing public school education and academic achievement.<sup>149</sup> Moreover, those students who move on to college are unprepared and are forced to take remedial courses.<sup>150</sup> The numbers show that those college students in need of remediation classes are mostly part of the minority and low-income group.<sup>151</sup>

While, the general subpar educational achievement of minority high school students is a culmination of inferior and poor quality education in their preschool years throughout their elementary school years, it is also attributed to their parents' and their community's role in their lives. For example, while lower-class minority students say they want to go to college, they do not receive as much parental, community or peer pressure to take challenging courses or become involved in extracurricular activities that will make them more attractive for college admissions.<sup>152</sup> Minority students are less likely to have access to guidance counseling<sup>153</sup> and teachers are less likely to believe that minority students will go to college.<sup>154</sup> By the time poor, minority children have reached high school, they are fully aware of society's lower expectation of them and they have likely developed feelings of inferiority.<sup>155</sup> As the next section will show, education is as much about social development as it is about academic development. The poor education that minority and poor students receive in our urban schools has social ramifications for our underprivileged children. The next section will show that because of residential segregation, low-income and minority students lack the social development and confidence their white counterparts have.

## B. Racial Stigma

---

<sup>149</sup> Austin Turner, *supra* note 27, at 811.

<sup>150</sup> Redfield, *supra* note 82, at 71.

<sup>151</sup> *Id.*

<sup>152</sup> ROTHSTEIN, 30.

<sup>153</sup> Redfield, *supra* note 82, at 44.

<sup>154</sup> *Id.* at 58.

<sup>155</sup> *Id.*

This section will show that racial segregation manifested through housing segregation and thus unequal education forms social deficits and a racial stigma in the affected students. Social development is a crucial part of a child's education. In addition to academic enrichment, equally important goals to education are non-cognitive skills such as self-confidence, communication skills, responsibility, and ability to work with others.<sup>156</sup> Middle-class families who live in the suburbs, for example, generally foster these qualities in their children from a very early age.<sup>157</sup> Middle-class families engage their children into adult conversations so that children feel comfortable communicating with adults and expressing their opinions.<sup>158</sup> This type of child-adult interaction develops intellectual skill that transfers to academic achievement.<sup>159</sup> On the other hand, lower-income parents generally expect their children to submit to adult authority without question and thus lower-income minority children do not build the communication skills their white, middle-class counterparts do.<sup>160</sup> As such, where white, middle-class students are taught confidence and entitlement, minority and low-income students are not generally taught the same and so a sense of inferiority and a racial stigma starts to form very early on.<sup>161</sup>

Segregation in housing involves economic, social and psychological dimensions, which leads to a minority child's development and experience in education as compared to that of the dominant culture.<sup>162</sup> Members of hypersegregated communities are not exposed to white residents who live in the same city.<sup>163</sup> Residentially segregated neighborhoods implicate social

---

<sup>156</sup> ROTHSTEIN, 7

<sup>157</sup> *Id.* at 23

<sup>158</sup> *Id.*

<sup>159</sup> *Id.*

<sup>160</sup> *Id.*

<sup>161</sup> Redfield, *supra* note 82, at 58-59.

<sup>162</sup> Cynthia Garcia Coll et. al., *An Integrative Model for the Study of Developmental Competencies in Minority Children*, in CHILD DEVELOPMENT, 1891, 1901 (1996).

<sup>163</sup> Douglas S. Massey & Nancy A. Denton, *Hypersegregation in U.S. Metropolitan Areas: Black and Hispanic Segregation Along Five Dimensions*, 26 DEMOGRAPHY 373, 382 (1989)).

isolation.<sup>164</sup> Residentially segregated neighborhoods “isolates a minority group from amenities, opportunities, and resources that affect social and economic well-being.”<sup>165</sup> The racial stigma that develops within minority and low-income children is connected to social isolation experienced by children living in racially segregated neighborhoods.

Racial stigma directly influences education of the stigmatized minority.<sup>166</sup> Importantly, stigmatized students have low expectations of themselves.<sup>167</sup> Indeed, in the *Brown* decision, even the Supreme Court recognized that racial segregation is stigmatizing and affects black school children by marking blacks as a racially inferior group.<sup>168</sup> Studies have shown that minority students are aware that teachers may stereotype them and have low expectations of their academic abilities.<sup>169</sup> Children become aware of these stereotypes at a very early age and may underperform as a result of the negative stereotyping and the resultant anxiety.<sup>170</sup> Once adopted, racial stigma directly affects self-esteem and makes for an uncertain social identity.<sup>171</sup> The stigmatized accepts that they are inferior.<sup>172</sup> For example, many African-American students regard academic achievement as “acting white” and so racial stigma has deemed academic success as something unattainable and not in character with what is expected of a black student.<sup>173</sup>

Racial stigma causes a further internal struggle in the stigmatized, where the stigmatized struggles to reconcile what society has attributed to them as a result of the racial stigma with

---

<sup>164</sup> *Id.* at 389.

<sup>165</sup> *Id.* at 373.

<sup>166</sup> Jeffries, *supra* note 146, at 31-32.

<sup>167</sup> Redfield, *supra* note 121, at 362.

<sup>168</sup> Gullen, *supra* note 18, at 256.

<sup>169</sup> Redfield, *supra* note 82, at 58.

<sup>170</sup> *Id.* at 58-59.

<sup>171</sup> Jeffries, *supra* note 146, at 29.

<sup>172</sup> *Id.*

<sup>173</sup> *Id.* at 32.



their own perception of their actual selves.<sup>174</sup> For example, an inner city student observed that, “They showed me how to fill out a McDonald’s application in my Life Skills Class. I think they should have at least taught me how to fill out a college application . . . .”<sup>175</sup> Racial stigma thereby obstructs the stigmatized minorities’ ability to fully participate in society and as the preceding quote illustrates, it also affects the way others perceive and treat the stigmatized minority.<sup>176</sup> For example, as previously mentioned, students who live in residentially segregated areas face semi-institutional racial stigma in that school administration often create less challenging curricula based on their perceived capabilities<sup>177</sup> and when asked, teachers did not think their minority students were as likely to go on to college as their white students were.<sup>178</sup>

Furthermore, minority children living in racially segregated inner-city neighborhoods and attending an urban public school are exposed to challenges that white students in a suburban neighborhood attending a suburban public school are not exposed to. Children who attend inner-city schools face additional obstacles that often arise from peer pressure.<sup>179</sup> If children’s friends and neighbors are uninterested in doing well in school and are instead engaged in crime, inner-city children who are exposed to that are more likely to view that kind of behavior as acceptable.<sup>180</sup> White, suburban children, do not experience these challenges and in fact, if white, suburban children engage in crime of any sort, they are afforded a cushion by safety nets their middle-income parents provide and so are not as easily influenced.<sup>181</sup> Therefore, inner-city children are more vulnerable to negative influences than their white counterparts.<sup>182</sup>

---

<sup>174</sup> *Id.* at 30.

<sup>175</sup> Redfield, *supra* note 121, at 364.

<sup>176</sup> Jeffries, *supra* note 146, at 29.

<sup>177</sup> Farkas, *supra* note 98, at 1123.

<sup>178</sup> Redfield, *supra* note 82, at 58.

<sup>179</sup> Austin Turner, *supra* note 27, at 812.

<sup>180</sup> *Id.*

<sup>181</sup> Zhou & Logan, *supra* note 4, at 189.

<sup>182</sup> *Id.*

Lastly, housing segregation and educational segregation have stigmatizing effects relating to academics and student life for minorities. Race directly relates to students' attitudes about missing class and doing homework.<sup>183</sup> For example, NAEP data found that fourth grade black, Hispanic, American Indian and low-income students reported in greater numbers than their white counterparts that their friends "make fun of people who try to do well at school."<sup>184</sup> As such, inner city, minority children are more likely to refuse mainstream norms and standards of achievement and consider those who do well in school as "acting white" or "selling out."<sup>185</sup> Therefore, the detriment of having high proportions of minorities in a school is that white students have a better educational background and have higher educational aspirations than minority students.<sup>186</sup> This proves to be a challenge for urban, segregated schools because public schools are a reflection of its population.<sup>187</sup> If a neighborhood is hypersegregated and the majority of a school's student population deems academic success as "acting white," the educational disparity will continue to reinforce itself amongst its own students.

Therefore, minority students living in racially segregated areas often endure challenges that make it difficult for them to successfully face greater society. First, they face pressures from their own community that serve as social obstacles to educational success. Furthermore, they often times experience social isolation because they are not exposed to the dominant culture in any substantive way. Thus, they feel uncomfortable once they get older and are active members of larger society. The segregated neighborhoods that low-income minority children live in and the segregated schools they attend, do not prepare them for a diverse future and instead forms a

---

<sup>183</sup> Richard Kahlenberg, *Economic School Integration*, in THE END OF SEGREGATION 150, 156 (Stephen J. Caldas & Carl L. Bankston, III eds., 2003).

<sup>184</sup> Farkas, *supra* note 98, at 1126.

<sup>185</sup> Zhou & Logan, *supra* note 4, at 189.

<sup>186</sup> Kahlenberg, *supra* note 182, at 155.

<sup>187</sup> Gary Orfield, *supra* note 13.

racial stigma that reinforces disparity. The next section describes how scholars, courts and lawmakers offer variations of racial integration as a remedy for housing and school segregation without considering the social implications of such segregation.

#### IV. Racial Integration as a Remedy

This part describes scholars, courts' and lawmakers' response to housing segregation and educational disparity amongst urban and minority youth. Scholars, courts and lawmakers have not attempted feasible and realistic remedies to education segregation because they fail to acknowledge the complexity of education segregation and that residential segregation is a crucial component of it. Instead, scholars, courts and lawmakers offer variations of racial integration to remedy educational segregation.

##### A. Racial Integration

Courts and some scholars posit that racial integration is a viable solution for eliminating racial segregation in education. The theory behind integration is that it would alleviate stigma and enhance educational performance of all students.<sup>188</sup> “The presence of [w]hite students, by itself, does not vitiate the continued social transmission of racial stigma, respond to stigma’s psychological effects, or address the substantive educational harms caused by segregation.”<sup>189</sup> As Professor Shavar Jeffries states, forced integration may actually exacerbate minority students’ feeling of academic inferiority if white students outperform them.<sup>190</sup> Placing lower-class students in middle-class communities may cause the lower-class children to withdraw from academic competition and may cause more harm than good.<sup>191</sup>

---

<sup>188</sup> Jeffries, *supra* note 146, at 17-18.

<sup>189</sup> *Id.* at 18.

<sup>190</sup> *Id.*

<sup>191</sup> ROTHSTEIN, *supra* note 8, at 137.

Additionally, present-day integrationist theory calls for “assimilation” in that a minority group is expected to adopt the customs of the prevailing culture.<sup>192</sup> The African-American community in particular has rejected integration because of the “implicit assumption” that the black community is the root of the problem.<sup>193</sup> Furthermore, logistically speaking, forced integration is infeasible and improbable.<sup>194</sup> It is very unlikely that legislatures will start broad government efforts to foster integration. It is similarly unlikely that courts will establish intentional school segregation.<sup>195</sup> Critical race theory scholars have also rejected integration because it recognizes a hierarchy and distinction between privilege and non-privilege instead of achieving major change.<sup>196</sup> The next section will discuss a more elaborate variation of racial integration that similarly fails to offer a realistic remedy to segregation.

B. Radical Integration.

Professor Michelle Adams offers “radical integration” as a solution for racial segregation. Professor Adams rightly recognizes that racial segregation limits “economic, educational, political, social, and cultural opportunities” for racially segregated groups.<sup>197</sup> Radical integration aims to recognize the “transformative potential of integration” and at the same time maintains a “stable, positive black identity” within an integrated community.<sup>198</sup> Professor Adams’ hope is that “the association of members of different races within a context of social equality might benefit all by destroying stereotypes, suspicion and mistrust.”<sup>199</sup> To accomplish her vision of radical integration, Professor Adams breaks radical integration down into two elements.<sup>200</sup> She

---

<sup>192</sup> Adams, *supra* note 29, at 264.

<sup>193</sup> *Id.* at 264-65.

<sup>194</sup> Jeffries, *supra* note 55, at 18.

<sup>195</sup> *Id.* at 19.

<sup>196</sup> Adams, *supra* note 29, at 265-66.

<sup>197</sup> *Id.* at 293.

<sup>198</sup> *Id.* at 267.

<sup>199</sup> *Id.* at 273.

<sup>200</sup> *Id.* at 272.

defines the first element as an associational element where the goal is to cause “association where separation had been the rule.”<sup>201</sup> She further defines radical integration under the second element of material equality or instrumental equality. The second element is defined as aiming to bring “racial or ethnic groups together for the purpose of fostering and facilitating material equality.”<sup>202</sup>

Professor Adams appreciates that residential segregation is likely the most significant contributor to racial inequality in the United States today.<sup>203</sup> She also astutely acknowledges that residential segregation goes beyond “white material advantage” and how it functions to impede minority access to “less-quantifiable areas like status enhancement, social development, and information and opportunity access.”<sup>204</sup> She uses the example of public schools in the United States to illustrate how the consequences of racial segregation create alienation and isolation from larger society.<sup>205</sup> Professor Adams demonstrates the cyclical interdependence housing and education have with each other. She states that good schools lead to good jobs, which in turn lead to neighborhoods with low crime rates.<sup>206</sup>

In sum, scholars’, courts’, and lawmakers’, offered remedies of racial integration and even more elaborate variations of racial integration show that they have failed to fully appreciate the complexity of educational segregation. Scholars, courts and lawmakers have failed to properly consider the social implications of education segregation and its effect on children. As the next section will show, racial integration in any variation is not a realistic remedy for segregation because people cannot be forced to integrate.

---

<sup>201</sup> *Id.*

<sup>202</sup> *Id.* at 272-73.

<sup>203</sup> *Id.* at 278-79.

<sup>204</sup> *Id.* at 279.

<sup>205</sup> *Id.* at 282.

<sup>206</sup> *Id.*

## VI. A Feasible Solution

This section will show that racial integration is a misguided remedy to segregation. Racial integration ignores feeling of inferiority that underprivileged children experience as a result of living in impoverished neighborhoods and attending poverty-stricken schools. In addition, racial integration overlooks human factors such as racism or simple personal preference. This section will highlight those human factors that make racial integration a challenge that will take quite some time to conquer.

### A. Forced Integration

Racial integration cannot be forced; forced integration is more damaging than helpful because it ignores the stigma faced by underprivileged students. Professor Michelle Adams' theory of radical integration<sup>207</sup> simply combines racial integration and independent black identity.<sup>208</sup> She recognizes that racial integration is the only adequate solution for racial inequality but asserts that her solution is radical because she is departing from the customary approach by not suggesting that blacks assimilate to the dominant white culture.<sup>209</sup> Professor Adams' solution calls for black self-identity in a way that is not realistic given all the societal and community pressures children in the inner-city experience.

Professor Adams mentions that segregation fosters "feelings of inferiority and hopelessness in blacks, while in whites it breeds a sense of superiority and lack of social responsibility for . . . blacks."<sup>210</sup> The concept of minority and inner-city youth feeling inferior is key. However, the problem is deeper than just a feeling of inferiority, the problem is one of racial stigma. Professor Adams ignores that children are conditioned due to outside factors, such

---

<sup>207</sup> For purposes of this discussion racial integration is subsumed into radical integration.

<sup>208</sup> *Id.* at 275.

<sup>209</sup> *Id.* at 275-77.

<sup>210</sup> *Id.* at 279.

as their friends, their immediate community and society at large. To fully implement Professor Adams' solution would require many layers and training of different generations within families.

Overcoming racial stigma for school-aged children requires not only affirming their own identity but also rejecting the identity society has assigned them.<sup>211</sup> Education is a crucial part of affirmation because it creates identity.<sup>212</sup> Professor Adams fails to recognize that even if minority children have strong identities and are taught by their parent(s) to have a strong self-identity, they will likely still be going to school with other minority students. Furthermore, children have different levels of access to resources that will help them fight stigma and children also react to stigma differently.<sup>213</sup>

Professor Adams' proffered solution also assumes that dominant culture will be accepting of this "watered-down" black or minority identity. This country has a long history of racial discrimination and segregation. First, it will take entirely too long for minority communities to reverse the history of racial inequality. Second, even if minority communities are able to form a strong sense of identity, Professor Adams' solution requires that the dominant culture either tolerate or agree with this identity. Eventually, when the minority becomes the majority, we will start to see racial integration. However, inner-city youth need a solution that will help them now. If we take incremental steps to help our children and utilize solutions like after-school program that have proven success in targeting minority and low-income students, then the racial stigma that taints these students subsides one student at a time. The next section discusses the benefits of after-school programs as illustrated by proven examples in New York and New Jersey.

#### B. After-School Programs

---

<sup>211</sup> Jeffries, *supra* note 55, at 33.

<sup>212</sup> *Id.*

<sup>213</sup> *Id.* at 34.

After-school programs that focus on strengthening the academic skills and life skills needed to succeed in school and the work place are more feasible than something as broad as racial integration and can serve as an immediate solution for our stigmatized children. Programs that focus on strengthening academic and social areas where students of color have historically been weak can reap short-term results that will eventually lead to complete integration. In its attempt to close the achievement gap for poor and minority children, policy makers neglect to recognize the importance of social differences.<sup>214</sup> Because minority and lower-income children start school at a disadvantage as compared to their white, middle-class counterparts, they cannot produce typical middle-class achievement unless they learn basic and advanced skills at the same time.<sup>215</sup>

The solution is in after-school and summer programs that counterbalance some of the disparity that poor, minority children experience. In the inner city, after-school tutoring and youth-targeted programs are offered by non-profit organizations, which are supported by government or private funding.<sup>216</sup> Regardless of race, studies of shown that students who participate in these after-school activities have higher overall achievement than students who do not participate in such programs.<sup>217</sup>

Legal Outreach, Inc., is an after-school program with proven success. Legal Outreach, Inc., is a program based in New York City targets urban youth by using rigorous educational programs and professional exposure that develop skills and build confidences.<sup>218</sup> The program teaches its students to strive for academic excellence.<sup>219</sup> In 1993, Legal Outreach established the

---

<sup>214</sup> ROTHSTEIN, *supra* note 8, at 9.

<sup>215</sup> *Id.* at 6.

<sup>216</sup> Zhou & Logan, *supra* note 4, at 191.

<sup>217</sup> *Id.*

<sup>218</sup> Legal Outreach, Inc. <http://legaloutreach.org> (last visited on Apr. 15, 2012).

<sup>219</sup> *Id.*



College Bound program, which is a four-year program designed to give underprivileged students the support and skills necessary to help them achieve their goals.<sup>220</sup> Three hundred and thirty-six students have completed the College Bound program and 99.4 percent have attended college, and more than half have attended top-ranked schools.<sup>221</sup> College Bound has the statistical figures to show the proven success of such programs.<sup>222</sup> College Bound students have a 100% four-year high school graduation rate as compared to 59% of New York City high school students.<sup>223</sup> In addition, 85 percent of College Bound students graduate college in four years as compared to 54 percent of students nationally who graduate college in five years.<sup>224</sup>

The New Jersey Law and Education Empowerment Program (NJ LEEP) is a fairly new program with proven success. It is also a program that aims to supplement urban youth during their out-of-school time. NJ LEEP targets inner-city children in grades eight through twelve from Newark, New Jersey.<sup>225</sup> The program empowers urban children by focusing on skills, habits and exposure.<sup>226</sup> The program builds skills by having students participate in law-related mathematics and other educational programs.<sup>227</sup> It exposes students to role models and professionals and teaches students the habits necessary to succeed.<sup>228</sup> Similar to Legal Outreach, Inc. NJ LEEP also has a College Bound Program. Through its College Bound program, NJ LEEP students participate in mock trials, after-school tutoring, grammar and writing instruction,

---

<sup>220</sup> *Id.*

<sup>221</sup> *Id.*

<sup>222</sup> *Id.*

<sup>223</sup> *Id.*

<sup>224</sup> *Id.*

<sup>225</sup> NJ LEEP, <http://www.njleep.org/index.html> (last visited on Apr. 30, 2012).

<sup>226</sup> *Id.*

<sup>227</sup> *Id.*

<sup>228</sup> *Id.*

attorney mentoring, help applying for college, and NJ LEEP even offers parent educational workshops.<sup>229</sup>

From 2010 – 2011, NJ LEEP served 351 inner-city students total, with 80 students participating in the College Bound program.<sup>230</sup> NJ LEEP graduated its first class in 2011.<sup>231</sup> One hundred percent of its first graduating class are attending college.<sup>232</sup> Seventy-five of the graduating members are in top 100 universities and colleges.<sup>233</sup> The average scholarship award for each NJ LEEP graduate was about \$35,000 a year for a total of \$420,000 a year in scholarship money for the entire graduating class.<sup>234</sup>

As demonstrated, programs like Legal Outreach, Inc. and NJ LEEP are successful and can serve as an immediate solution to housing and school segregation in inner-city minority communities. Both programs are not dependent on so many external factors. It does not require that parents train their children to ignore the prevalent racial stigma in urban communities. It does not require that dominant culture accept minorities' identities. It does not require an unrealistic application of integration, where integration has shown to be a "failed social experiment."<sup>235</sup> Legal Outreach, Inc. and NJ LEEP recognize the historical weaknesses of urban youth and tackles them head on. These program sets high expectations for student participants. In that way, students are immediately withdrawn from the racial stigma placed on them by society. These programs also address the social isolation problem by fostering interactions between students and persons from differing age groups, differing racial groups, and differing class groups. While programs such as Legal Outreach, Inc. and NJ LEEP have proven success,

---

<sup>229</sup> *Id.* at <http://www.njleep.org/success.html>

<sup>230</sup> *Id.*

<sup>231</sup> *Id.*

<sup>232</sup> *Id.*

<sup>233</sup> *Id.*

<sup>234</sup> *Id.*

<sup>235</sup> Adams, *supra* note 29, at 264.

there is a severe shortage of these after-school programs, and the shortage is most prominently seen in inner-city, poor communities.<sup>236</sup> Estimations show that less than 20% of the demand for these after-school programs is met.<sup>237</sup> Because our lower-income, minority children are suffering in our segregated, impoverished neighborhoods, public policy should be targeting this population. Legal Outreach, Inc. and NJ LEEP serve as models of success that should be used in other urban and poor areas.

## VII. Conclusion

Residential segregation and the consequential school segregation that results will not be eliminated in the near future. The ramifications of such segregations are clear: minority, inner-city children generally underperform as compared to their white counterparts. The achievement gap is clear and despite calls for action, the gap persists. All the while, minority and urban youth experience the effects of segregation in their every day lives, namely at school, which is an integral part of a child's life. Racial integration is not a solution to help eliminate segregation, and in particular housing segregation and school segregation. Racial integration includes too many variables that require drastic action and forces society to act and interact with each other in ways that they may not want to. However, urban and minority youth need gradual action so that they are not trapped in a perpetual cycle of inferiority. After-school programs like Legal Outreach and NJ LEEP can serve as a gradual solution to help inner-city children. After-school programs will not reap overnight results; however, with each graduating class, the students are breaking down barriers and closing the achievement gap one urban child at a time.

---

<sup>236</sup> Zhou & Logan, *supra* note 4, at 191.

<sup>237</sup> *Id.*