

ARTICLES

DEMOGRAPHY AND DESEGREGATION IN THE CLEVELAND PUBLIC SCHOOLS: TOWARD A COMPREHENSIVE THEORY OF EDUCATIONAL FAILURE AND SUCCESS

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INTRODUCTION

Integration of public schools has largely become a discredited goal. Instead of providing a better education for poor minority students, its critics contend that integration efforts have destroyed public school systems and the economic base of the cities in which they are located. Desegregation plans induce “white flight” and decrease political support for public school funding. These critics point to the dismal condition of the large urban districts that were subject to court-ordered desegregation rulings as evidence for their arguments.¹ One of the prime exhibits is the foundering school district encompassing the city of Cleveland.² Far from being a solution to chronically low test scores and the state’s highest dropout rate, Judge Frank Battisti’s controversial desegregation order in *Reed v. Rhodes*³ is routinely fingered as a primary cause of the city’s dramatic population loss⁴ and the collapse of the public schools.⁵

1. See, e.g., Glenn C. Loury, *Integration Has Had Its Day*, N.Y. TIMES, Apr. 23, 1997, at A23 (arguing that “the flight of white middle-class families from urban districts subject to desegregation decrees has made it all but impossible to achieve anything beyond token integration in many places,” and thus that integration is the “wrong response” to the current crisis in urban education); see also *infra* notes 9–11.

2. See Beth Reinhard, *Cleveland: A Study in Crisis*, in *Quality Counts '98*, EDUC. WK., Jan. 8, 1998, available at <http://www.edweek.org/sreports/qc98/challenges/cleveland/cl-n.htm>. The report includes the following bleak statistics: one out of three Cleveland high school students earns a diploma; approximately 15% of the district’s fourth and ninth graders passed the 1996–97 state proficiency tests; less than 1% of high school students take advanced placement courses; approximately 80% of the student body is eligible for federally subsidized lunches; recurrent fiscal shortfalls have precluded the timely replacement of textbooks or the repair of crumbling school buildings.

3. 422 F. Supp. 708 (N.D. Ohio 1976) (finding Cleveland and state school officials guilty of intentionally maintaining a racially segregated school system); see also *Reed v. Rhodes*, 455 F. Supp. 569 (N.D. Ohio 1978) (setting forth a desegregation remedy that included the mandatory busing of students to achieve racial balance).

4. See, e.g., Brent Larkin, *City’s Own Top 10 for Last 100 Years*, PLAIN DEALER (Cleveland), Dec. 26, 1999, at F1 (citing the desegregation of the city schools as Greater Cleveland’s eighth most significant event of the century and stating that the desegregation order “hung over the city for 20 years [and] devastated its population base”). Between 1950 and 2000, Cleveland lost 436,405 residents; during the 1970s, when *Reed* was decided, the total loss was 177,507. See *infra* Table 1 and Part II.A. Whether the busing order was the primary catalyst for this population loss is an issue central to this case study.

5. See, e.g., Joyce B. Haws, *Neighborhood Schools Are Now an Option*, PLAIN DEALER (Cleveland), June 22, 1999, at B8 (quoting director of a Cleveland-based coalition for neighborhood schools, who argued that “two decades of court ordered racial control of student assignment . . . [resulted in] the devastation of a once-excellent school system and the disenfranchisement of the public that once elected its school board.”); Scott Stephens, *Schools’ Court Control May End; Bid for ‘Unitary Status’ May Halt Desegregation*, PLAIN DEALER (Cleveland), June 30, 1997, at B1 (reporting that Robert Reed III, former lead plaintiff in the desegregation case, now believes that busing “destroyed the district”); Scott Stephens & Patrice M. Jones, *State Asks Judge to Let Parents Have School Choice*, PLAIN DEALER (Cleveland), Jan. 4, 1996, at A1 (quoting newly elected school board member: “Integration has destroyed educational opportunities for African-Americans in this city.”).

This article argues that the dismal condition in the Cleveland schools has very little, if anything, to do with the desegregation order. Instead, this article utilizes a broad array of empirical evidence to demonstrate that the city's current educational crisis is the inevitable outcome of several economic, social, and demographic trends that began in the early 1900s and have played themselves out over several decades. Moreover, it posits that the same forces that precipitated the decline of Cleveland and its public schools can now be observed having the same corrosive effect on adjacent school districts—communities with no history of school desegregation, yet now sharing similar indices of racial and socioeconomic isolation and academic underperformance.

Correcting the historical record is important for several reasons. First, the Cleveland public schools have come to play a prominent role in the ongoing national debate on education reform. "While low test scores and attendance are typical of urban districts nationwide," observed a 1998 report in *Education Week*, "the performance of Cleveland's students is particularly alarming. The slew of penetrating social, economic, and political problems that thwart progress in many big-city schools plague Cleveland with a vengeance...."⁶ Not surprisingly, the desperate conditions in Cleveland have resulted in "some of the most extreme educational reforms now in use anywhere," including a mayoral takeover of the city schools and a hotly contested voucher program that is currently being reviewed by the U.S. Supreme Court.⁷ Yet the historical analysis set forth in this article identifies the dominant role that regional demographics have played in the demise of the Cleveland public schools. If the theory of educational failure set forth by this article is correct, then at least in Cleveland, significant gains in student performance will be virtually impossible without also addressing the systemic trends that have shaped the entire metropolitan region.

Second, a distorted characterization of the school desegregation era limits our ability to address the role of class and race in educational outcomes. During the last several years, many thoughtful scholars have continued to make a compelling case for racial and socioeconomic integration.⁸ Yet regardless of the

6. Reinhard, *supra* note 2.

7. *Id.* (discussing voucher program and mayoral takeover). The constitutionality of the voucher program is currently before the U.S. Supreme Court. See *Simmons-Harris v. Zelman*, 234 F.3d 945 (6th Cir. 2000) (2-1 decision) (finding that voucher program violated the Establishment Clause because the alternatives to public schools were primarily religious schools and affirming the lower court's preliminary injunction enjoining the operation of the voucher program), *cert. granted*, 122 S.Ct. 23 (2001). A permanent injunction was stayed pending the outcome of the appeals process. See *Simmons-Harris v. Zelman*, 120 S. Ct. 443 (1999) (mem.) (5-4 decision).

8. See, e.g., Gary Orfield, *Toward an Integrated Future: New Directions for Courts, Educators, Civil Rights Groups, Policymakers, and Scholars*, in *DISMANTLING DESEGREGATION: THE QUIET REVERSAL OF BROWN V. BOARD OF EDUCATION* 331–61 (Gary Orfield et al. eds., 1996) (discussing evidence that racial and socioeconomic integration enhances educational and economic mobility for poor minority students); LEONARD S. RUBINOWITZ & JAMES E. ROSENBAUM, *CROSSING THE CLASS AND COLOR LINES: FROM PUBLIC HOUSING TO WHITE SUBURBIA* 127–72 (2000)

merits of their claims, popular perception of the desegregation era essentially eliminates them from serious consideration. At least in Cleveland, it is now conventional wisdom that school desegregation *caused* white flight to the suburbs and ruined the city schools; elected officials,⁹ journalists,¹⁰ and even NAACP officials¹¹ allude to this allegedly potent relationship as if it were obvious. Contrary to popular perceptions, this article provides substantial evidence that the causal connection between the Cleveland desegregation order and the decline of the city's public schools at most moderately accelerated a longstanding process that had already gained substantial momentum on its own. It also documents that by the time busing was implemented in 1979 and 1980, both the white and black middle class, for the most part, already had exited the city limits. As a result, the racial integration that was achieved in the schools during the next twenty years of court supervision completely lacked a significant socioeconomic component.¹²

A third reason for correcting the historical record is the fact that Cleveland can serve as an important baseline for a theory of education failure and success that focuses primarily on demographic trends, rather than the perennial bromides dealing with higher standards or increased teacher accountability.¹³ Although this article only claims to explain educational failure in Cleveland, it never-

(documenting dramatically better educational and employment outcomes for youth who relocated to white suburbs as part of Gautreaux litigation); James E. Ryan, *Schools, Race, and Money*, 109 YALE L.J. 249, 257 (1999) (arguing that a "still-growing body of evidence regarding racial and socioeconomic integration" demonstrates that "integration is a more effective means of improving the academic achievement and 'life chances' of poor minority students" than increasing the funding of racially and socioeconomically isolated schools).

9. See Stephens & Jones, *supra* note 5 (quoting newly elected school board member: "Integration has destroyed educational opportunities for African-Americans in this city."); see also *Effectiveness of Mandatory Busing in Cleveland: Hearing Before the Subcomm. on the Constitution of the House Comm. on the Judiciary*, 104th Cong. 8 (1995) (statement of Ron Mottl, State Rep. Ohio State Leg.) (stating that professor James Coleman studied 500 desegregation cases and determined that "all court ordered busing led to was white flight" without ever achieving desegregation). It should be noted in passing that Mottl grossly mischaracterizes Coleman's work. See Part I.A. Moreover, schools in many southern states in fact did achieve both substantial and sustained desegregation. See, e.g., Gary Orfield, *Metropolitan School Desegregation: Impacts on Metropolitan Society*, 80 MINN. L. REV. 825 (1996) (discussing characteristics of several successful desegregation plans, the most successful of which relied on busing).

10. See Larkin, *supra* note 4 (arguing that busing in Cleveland "devastated its population base").

11. See Dick Feagler, *Forbes Has the Answer for the Failure of Busing*, PLAIN DEALER (Cleveland), June 27, 1997, at A2 (quoting Cleveland NAACP President that failure of desegregation plan in Cleveland was not "the fault of blacks or the NAACP. Whites did not comply with court ordered busing. Busing resulted in white flight, and black kids paid the price.").

12. The Cleveland desegregation program officially ended July 1, 2000. See Janet Tebben & Scott Stephens, *Era Ends for City's Schools; Desegregation Case Drawing to a Close*, PLAIN DEALER (Cleveland), June 30, 2000, at B1 (reporting district court findings of unitary status in 1998 and setting of July 1, 2000 as date for case's conclusion).

13. Cf. Victoria J. Dodd, *A Critique of the Bush Education Proposal*, 53 ADMIN. L. REV. 851, 856-57 (2001) (discussing emphasis on testing and standards in President Bush's education reform proposal and noting that plan is "an example of the national 'standards' movement").

theless may serve as a useful starting point for generating theories of educational success or failure in other parts of the country. For example, historically low housing prices relative to personal income made an exit to the suburbs a relatively cheap option for many Cleveland residents. In contrast, in metropolitan areas with a thriving regional economy and a tight housing market, we might anticipate a slower rate of decline in the central city schools, or even an improvement. Because public education in metropolitan Cleveland is fragmented into dozens of small school districts, this case study also can be usefully compared to educational performance in regions that have utilized metropolitan-wide school systems and thus achieved greater racial and socioeconomic balance.¹⁴

The methodology of this article is straightforward. Part I presents two relatively discrete areas of social science that are relevant to central city decline: (1) studies that link increased rates of white flight to court-ordered desegregation, which I refer to as the “desegregation/white flight model”; and (2) research on the general cycle of middle-class outmigration spurred by an attractive suburban lifestyle and the declining social and economic conditions of the central city, which I have designated the “economic and social conditions model.” Although these two models are mutually compatible, the relative weight that should be assigned to each explanation is often ambiguous. Therefore Part I also discusses the misguided tendency of courts to overemphasize the first model and largely ignore the second.

Part II presents a critical case study of Cleveland and its public schools. In order to assess the relative importance of the two models of decline, the analysis considers empirical evidence from a wide variety of sources, proceeding chronologically from the early 1900s to the present. Part II concludes that the economic and social conditions model provides the most robust explanation of not only the failure of the Cleveland public schools, but also the failure (and success) of dozens of suburban districts throughout the region. Several maps in Appendix A provide a spatial analysis of race, socioeconomic status, and school performance for the seven-county Cleveland metropolitan areas.¹⁵ At least in Cleveland, these maps demonstrate the enormous predictive power that social and economic isolation has on educational outcomes.¹⁶

14. As evidence of the potential benefits of racial and socioeconomic integration in public schools, Part III.A.1 discusses the educational successes achieved by inner-city families who were relocated to the Chicago suburbs pursuant to the consent decree in *Hills v. Gautreaux*, 425 U.S. 284 (1976). Part III.A.2 discusses the *reverse* white flight that has occurred in the metropolitan-wide school system that encompasses Raleigh, North Carolina.

15. This article will typically use the term “MSA” to refer to the seven-county region comprised of Cuyahoga, Geauga, Lake, Lorain, Medina, Portage, and Summit counties. Cleveland and its inner-ring suburbs are all located in Cuyahoga county; however, newer Cleveland suburbs now are located in all six adjacent counties. The phrase “Cleveland metropolitan area” refers to this large agglomeration of Cleveland and its suburbs. The outer periphery of the seven-county region remains primarily rural, undeveloped land. See maps in Appendix A.

16. Although this article presents a fuller empirical basis for this claim, the claim itself is not

Finally, freed from the historical baggage of the Cleveland desegregation order, Part III considers the potential of racial and socioeconomic integration as an educational reform. It examines the mounting evidence that such an approach frequently has a profoundly positive effect on the “life chances”¹⁷ of poor and minority students. Part III also outlines a legal and political roadmap to increased levels of integration in public schools, with special emphasis on the issues of racial tipping and equal protection. It then returns to the concrete problems of Cleveland and suggests two legislative solutions to reduce levels of racial and socioeconomic isolation and thus improve educational outcomes.

I.

TWO MODELS OF CENTRAL CITY DECLINE

During the last three decades, the relationship between court-ordered desegregation and white flight has been the source of considerable academic debate. Although a consensus among social scientists has emerged that school desegregation, under certain circumstances, can be a contributing factor to white outmigration to the suburbs, this correlation has limited explanatory power where there are other social and economic conditions that typically produce the same effect. Unfortunately, when injected into a social issue as contentious as school desegregation, the precision and nuance of social science often is distorted or mischaracterized, even by courts.

This part imposes structure on the issue of central city decline by delineating two discrete bodies of relevant research. Part I.A outlines the “desegregation/white flight model” by surveying the social science literature linking desegregation to white flight. It identifies those characteristics of a remedial order that are most (and least) likely to provoke exit by middle-class white

new. See, e.g., Howard Gardner, *Paroxysms of Choice*, N.Y. REV. OF BOOKS, Oct. 19, 2000, at 49, quoted in Michael Heise, *Choosing Equal Educational Opportunity: School Reform, Law, and Public Policy*, 68 U. CHI. L. REV. 1113, 1136 (2001) (book review) (“Tell me the ZIP code of a child and I will predict her chances of college completion and probable income; add the elements of family support (parental, grandparental, ethnic and religious values) and a few more degrees of freedom remain, at least in our country.”).

17. Researchers frequently have used this phrase to articulate the most important benefits of racial and socioeconomic integration. See CHRISTINE H. ROSSELL, *THE CARROT OR THE STICK FOR SCHOOL DESEGREGATION POLICY: MAGNET SCHOOLS OF FORCED BUSING* 33 (1990) (observing that “the greatest interracial exposure for minority children—that is, the greatest percentage white in their classrooms—ultimately produces the greatest improvement in their life chances”); Bradley W. Joondeph, *A Second Redemption?*, 56 WASH. & LEE L. REV. 169, 193 (1999) (book review) (commenting that “[e]mpirical research has . . . demonstrated that desegregation improves African American students’ ‘life chances’ according to a variety of indicators of social well-being”); Ryan, *supra* note 8, at 257 (arguing that “integration is a more effective means of improving the academic achievement and ‘life chances’ of poor and minority students than is increasing expenditures in racially and socioeconomically isolated schools”); James S. Kunen, *The End of Integration*, TIME, Apr. 29, 1996, at 38, 44 (discussing researchers’ use of the term “life chances” and quoting Professor Robert L. Crain’s argument that the “great barrier to black social and economic mobility is isolation from the opportunities and networks of the middle class”).

families. Part I.B then outlines the “economic and social conditions model.” This theory correlates middle-class outmigration to a variety of other factors, including crime, declining city services, blight, tax burdens, and the racial transition of neighborhoods.¹⁸ Although these two models are wholly compatible, Part I.C examines how the federal judiciary has focused exclusively on the desegregation/white flight model while ignoring social and economic conditions that clearly limit its scope.

A. Desegregation/White Flight Model

In 1975, Professor James Coleman touched off an intense and emotional debate when he presented a paper at an annual conference of education scholars that reported a statistical relationship between school desegregation and the decline of white enrollment in large central city school districts.¹⁹ Coleman quickly became a target among his colleagues,²⁰ with the fallout eventually culminating in an unsuccessful attempt to have him censured by the American Sociological Association.²¹ However, after the published version of this report added an additional year of data²² and his critics conducted extensive follow-up research, a consensus began to emerge that Coleman’s findings generally were correct.²³

The basic principle that emerges from the social science literature suggests that most desegregation plans have accelerated preexisting trends in white

18. Racial transition of neighborhoods can be causally distinct from white flight related to school desegregation. See *infra* notes 50–57 and accompanying text.

19. See ANDREW GAROOGIAN, *SCHOOL DESEGREGATION AND “WHITE FLIGHT”: A SELECT BIBLIOGRAPHY* (1979) (tracing heated academic debate to Coleman’s 1975 paper; assembling comprehensive bibliography of sources); Gary Orfield, *Research, Politics and the Antibusing Debate*, 42 *LAW & CONTEMP. PROBS.* 141, 147 (1978) (recounting history of the academic debate, commencing with Professor Coleman’s report).

20. See, e.g., Reynolds Farley, *Is Coleman Right?*, 6 *SOC. POL’Y.* 14 (1976); Thomas F. Pettigrew & Robert L. Green, *School Desegregation in Large Cities: A Critique of the Coleman “White Flight” Thesis*, 46 *HARV. EDUC. REV.* 1 (1976); Christine H. Rossell, *School Desegregation and White Flight*, 90 *POL. SCI. Q.* 675 (1975).

21. Jay P. Greene & Paul E. Peterson, *Should Public Discussion of Political Science Research be Controlled? Why Interest Group Recommendations on the Proper Procedures for Reporting Research Should Be Treated with Skepticism*, 33 *POL. SCI. & POL’Y.* 221, 221 (2000) (quoting reminiscences by Coleman on efforts within the American Sociological Association to have him formally censured).

22. JAMES S. COLEMAN ET AL., *TRENDS IN SCHOOL SEGREGATION, 1968–73* (1975) [hereinafter *COLEMAN REPORT*].

23. See, e.g., DAVID J. ARMOR, *FORCED JUSTICE: SCHOOL DESEGREGATION AND THE LAW* 176 (1995) (noting eventual reappraisal of Coleman’s work by critics); W. A. V. Clark, *School Desegregation and White Flight: A Reexamination and Case Study*, 16 *SOC. SCI. RES.* 211, 212 (1987) (noting that subsequent studies now “establish quite clearly that the initial work by Coleman . . . was broadly correct in its interpretation of the effects of desegregation on white enrollment loss”; noting that initial critiques may have been more “emotional” than “scientific”); Christine H. Rossell, *Is It the Busing or the Blacks?*, 24 *URB. AFF. Q.* 138, 138 (1988) (“What originally began as a heated academic debate has evolved into a general consensus among social scientists in the field . . .”).

enrollment decline. In addition, the brunt of this effect is usually experienced during the implementation year,²⁴ with the majority of exiting students enrolling in private schools within the affected district rather than moving outside the city limits.²⁵ The magnitude of this initial drop, however, can be significantly affected by several other variables. For example, mandatory desegregation plans such as Cleveland's,²⁶ which accomplish racial balance through the pairing of identifiably white and minority schools, generally result in larger losses in white enrollment than plans that rely on voluntary transfer and magnet programs.²⁷

In the years immediately following implementation, voluntary and mandatory plans tend to result in similar levels of white loss. Professor David Armor, a longtime critic of mandatory busing, recently observed:

Although mandatory busing plans may produce more white flight in the short run, voluntary desegregation plans do not appear to solve the white loss problem. Over the past twenty years, most larger school systems with voluntary plans have continued to lose white students and generally end up resembling systems with mandatory plans: similar levels of interracial exposure *and* a predominantly minority enrollment. Obviously, demographic factors are also at work in these cities²⁸

A second factor affecting white enrollment is whether a desegregation plan involves the surrounding metropolitan area or is confined to the central city. Over the last quarter century, metropolitan or countywide plans, which have operated almost exclusively in the South, generally have achieved the most sustained levels of racial integration.²⁹

24. See generally COLEMAN REPORT, *supra* note 22, at 79 (noting that "the long-term impact of desegregation is considerably less than that of other continuing factors [also producing outmigration]"); Clark, *supra* note 23, at 214 ("While the literature has unequivocally established that there are white enrollment losses in response to mandatory desegregation plans, the temporal nature of the losses is less clear."); Reynolds Farley et al., *School Desegregation and White Flight: An Investigation of Competing Models and their Discrepant Findings*, 53 SOC. EDUC. 123, 134-35 (1980) (comparing various models of white flight and concluding that "desegregation primarily affects white enrollment during the first year"). For a discussion of "anticipatory" white flight as it applies to Cleveland, see *infra* Part II.B.4.

25. Clark, *supra* note 23, at 214 (reporting consensus among researchers on this issue and providing citations to studies).

26. ARMOR, *supra* note 23, at 168 (grouping Cleveland with other districts as relying on "mandatory pairing/clustering techniques").

27. ROSSELL, *supra* note 17, at 67 (noting studies that had concluded that mandatory plans produce more implementation year white flight than voluntary plans).

28. See ARMOR, *supra* note 23, at 210.

29. See Orfield, *supra* note 9, at 831-33 ("In fact, the most extensive desegregation plans, covering entire urbanized counties, have shown by far the highest levels of desegregation and have produced the nation's most stable districts in their percentage of white enrollment."). Orfield also reports that among the nation's sixty largest school districts, the lowest drops in white enrollment over a nineteen year period were experienced in communities that maintained a countywide school system or implemented a countywide desegregation plan. *Id.* at 842. These findings are consistent with the earlier social science. See, e.g., Clark, *supra* note 23, at 214 (observing consensus among social scientists that "[m]etropolitan desegregation plans tend to have less white enrollment loss

One explanation for the improved success of metropolitan or countywide school desegregation is that these larger plans tend to internalize the benefits and the costs of preexisting demographic changes.³⁰ Thus, with increased racial stability in the schools, flight to a more homogenous district becomes both impractical (commute times increase) and unnecessary (the racial balance is deemed to be more acceptable).³¹

Metropolitan or countywide desegregation plans also may experience reduced white flight because they typically start out with almost twice the proportion of white students than plans that are confined to the central city.³² This observation is consistent with research which suggests that higher proportions of minorities in a school district, whether through court-ordered desegregation or gradual demographic transition, is itself an independent variable that tends to accelerate the decline in white enrollment.³³ National polling data suggests that white attitudes toward mixed race classrooms have become significantly more favorable over time, yet approximately two-thirds of white respondents still object to schools where their child will be in the minority.³⁴ Thus, metropolitan-wide desegregation plans with lower overall proportions of minority students are predictably more stable than desegregation plans that are confined to the central city.³⁵

Social scientists who have studied the causal relationship between desegregation and white flight also have acknowledged that demographic trends between the city and suburb require careful attention. In 1975, the Coleman report observed that the emerging pattern of school segregation was *between*,

than do city school district desegregation plans"); Christine H. Rossell, *School Desegregation and Community Social Change*, 42 LAW & CONTEMP. PROBS. 133, 161–62 (1978) ("Virtually all studies agree that metropolitan plans, or countywide plans, all other things being equal, will have less white flight in response to school desegregation than city-only plans will.").

30. See Orfield, *supra* note 9, at 834–36 (observing that multiple subdivisions lead to uneven tax burdens, which "constrain the [poor] community's ability to attract and retain families and businesses," thus exacerbating outmigration).

31. See Rossell, *supra* note 29, at 161–62 (observing that countywide plans provide "little opportunity for residential relocation to a more segregated school district").

32. Orfield, *supra* note 9, at 842 (depicting in table form the 1991–92 percentage of white, black, and Hispanic enrollment in central city and countywide school districts in metropolitan areas with over one million residents); Rossell, *supra* note 29, at 161 (noting that lower proportions of blacks in a metropolitan plan likely will reduce subsequent white flight).

33. COLEMAN REPORT, *supra* note 22, at 76; see also ARMOR, *supra* note 23, at 180–81 (arguing that Coleman's work "suggests that the main causal mechanism in white flight is interracial contact itself"); ROSSELL, *supra* note 17, at 67–70 (observing that districts with less than 30% minority students experience significantly lower drops in white enrollment than districts with more than 30%; this is because "white flight is also a function of the percentage of pupils who are minority.").

34. ARMOR, *supra* note 23, at 195–96.

35. For example, for the past twenty-five years the Wake County school system, which encompasses the city of Raleigh, N.C., has implemented a system of countywide busing to achieve racial and socioeconomic integration. Nevertheless, white enrollment has grown dramatically. See *infra* Part III.A.2.

rather than within, districts in the nation's largest metropolitan areas.³⁶ As minority populations grew in the central city, whites were increasingly migrating to nearby, homogenous suburbs. But more importantly, this trend was often independent of any effort to desegregate the public schools.³⁷ Thus Coleman concluded his study with the following remarks:

The emerging problem of school segregation in large cities is a problem of metropolitan area residential segregation, black central cities and white suburbs, brought about by a loss of whites from the central cities. This loss is intensified by extensive school desegregation in those central cities, but in cities with high proportions of blacks and predominantly white suburbs, *it proceeds at a relatively rapid rate with or without desegregation.*³⁸

Although school desegregation by itself is an inadequate explanation for the middle-class outmigration, the social science literature clearly suggests that desegregation is likely to cause at least some white flight. Based on the foregoing discussion, the strength of this causal relationship can be summarized as follows: the white flight effect is strongest when desegregation is (1) mandatory (rather than voluntary), (2) involves only the central city (rather than the metropolitan area), and (3) is implemented with a relatively high proportion of minority students. As will be discussed later in this article, the Cleveland plan exhibited all three characteristics.

B. Economic and Social Conditions Model

In contrast to the desegregation/white flight model, which primarily applies to regions involved in the desegregation litigation of the 1970s and early 1980s, the economic and social conditions model applies more broadly to all metropolitan regions that have a central city and surrounding suburbs. For more than fifty years, movement from the city to the suburbs has been the dominant demographic trend.³⁹ Although much of the previous discussion has focused on the role of school desegregation as a causal factor of white outmigration, the process of suburbanization also entails other economic and social components that are capable of enormous independent momentum. This dynamic is synonymous with the economic and social conditions model referred to in this

36. See COLEMAN REPORT *supra* note 22, at 49–51, 64; see also Charles T. Clotfelter, *Public School Segregation in Metropolitan Areas*, 75 LAND ECON. 487, 487 (1999) (concluding that after 1970, growth of white suburbs had become the primary cause of school segregation).

37. COLEMAN REPORT, *supra* note 22, at 79–80.

38. *Id.* at 80 (emphasis added).

39. See Charles T. Clotfelter, *The Detroit Decision and "White Flight,"* 5 J. LEG. STUD. 99, 100 (1976) (“[W]hite flight,’ or perhaps ‘middle class flight,’ has been a fact of life in U.S. urban areas since World War II. Defined simply as the movement of white and middle class families from central cities to suburbs, this flight has long been recognized.”); see also *infra* note 88 and accompanying text. For a general discussion of suburban growth in America, see KENNETH T. JACKSON, *CRABGRASS FRONTIER: THE SUBURBANIZATION OF THE UNITED STATES* (1985).

article and can be described as follows.

A high density city offers a limited array of amenities and lifestyles for its residents.⁴⁰ The initial appeal of the suburbs for upper- and middle-income families is the chance to buy a single-family home on a relatively large tract of land. Initially facilitated by the development of public transit and a metropolitan highway system that reduced commute times between the central city and the suburbs, the movement of residents out of the central city gradually results in the decentralization of the regional employment market. In turn, the outmigration of both jobs and middle-class residents from the central city results in a higher relative tax burden levied on the remaining population, which tends to be disproportionately poor and minority. Amidst these relatively bleak social conditions, crime and blight proliferate, causing more middle-class families to leave. As one urban economist has observed, “this sort of middle-class flight tends to perpetuate itself.”⁴¹

An excellent example of the literature on the economic and social conditions model is an article published in 1979 by Professor William Frey.⁴² The primary focus of Frey’s study was to assess the relative importance of race among other social and economic factors leading to central city decline.⁴³ Frey’s research analyzed the migration patterns of thirty-nine large metropolitan areas⁴⁴ and considered three broad categories of causation: (1) factors related to central city decline, such as the ratio of city to suburban taxes per capita, the ratio of city to suburban educational expenditures per capita, and the incidence of serious crimes in the central city; (2) factors related to population structure, such as the percent of suburban structures built since 1950, percentage of non-black home ownership, and the percentage of the non-black central city population in the highly mobile twenty to twenty-nine age range; and (3) factors related to race, such as the percentage of residents who are black, school desegregation as measured by increases in the proportion of blacks and whites in the same classrooms, and incidences of racial disturbances per 100,000 population.⁴⁵

Although the data set was limited to the 1965 to 1970 time period, which predated the more aggressive school desegregation that eventually would occur

40. See Clotfelter, *supra* note 39, at 102.

41. *Id.*; see generally David F. Bradford & Harry H. Kelejian, *An Econometric Model of the Flight to the Suburbs*, 81 J. POL. ECON. 566 (1973) (using econometric analysis to explain middle-class outmigration from the city to the suburbs).

42. William H. Frey, *Central City White Flight: Racial and Nonracial Causes*, 44 AM. SOC. REV. 425 (1979); see also Peter Mieskowski & Edwin S. Mills, *The Causes of Metropolitan Suburbanization*, 7 J. ECON. PERSP. 135 (1993) (arguing that while initial outmigration to suburbs can be explained by income growth and lifestyle choices, later outmigration may be explained by “flight from blight” theory; concluding that growth in the 1970s and 1980s of residential and employment centers concentrated in suburbs make the monocentric model of urban growth “increasingly irrelevant”).

43. Frey, *supra* note 42, at 425–26.

44. See *id.* app. C at 446. Cleveland was among the regions studied.

45. *Id.* at 432–37, app. A at 445.

in many northern cities, Frey determined that the preexisting pattern of white outmigration operated primarily through the mover's selection of a new destination rather than actually prompting a decision to move.⁴⁶ Moreover, decisions on where to relocate were only weakly correlated to race. Frey concluded his article with the following assessment:

To the extent that racial factors proved to be negligible in explaining the incidence of mobility across SMSAs [Standard Metropolitan Statistical Areas], we conclude that the term *white flight* is an inappropriate description of the suburbanward movement of city whites [Nevertheless, t]he fiscal crisis in big city government as well as the suburbanization of employment opportunities . . . [is] likely to continue, particularly in the already declining central cities of our older metropolitan areas. The resulting increase in disparities between cities and their suburbs in services offered and taxes levied is likely to become even more important in the future mobility decisions of central city residents, than was shown during the 1965–70 period.⁴⁷

As one commentator has observed, Frey's model suggests that city dwellers primarily are "pulled" to the suburbs through the allure of new and improved housing stock, lower taxes, higher quality services, and the movement of jobs outside the central city, rather than being "pushed" by factors such as race.⁴⁸ Frey's theory also emphasizes that as the disparity in social and economic conditions between the city and suburbs becomes larger, the outmigration will only accelerate. Moreover, the thrust of Frey's analysis is essentially race neutral: the decline of central cities impacts the housing decisions of both the black and white middle class. Beginning in the early 1960s and eventually aided, if only symbolically, by the passage of the 1968 Fair Housing Act, black families increasingly acted on this preference.⁴⁹

Frey's analysis fully develops the "economic" component of the economic and social conditions model; an important part of the "social" component can be found in the literature that examines patterns of housing and racial integration. For example, demographers have long hypothesized the existence of a neighborhood "tipping" point where the proportion of minorities in an area reaches a level where white tenants or buyers no longer consider moving in.⁵⁰ Once this

46. *Id.* at 444 ("[D]eteriorating economic and social conditions in the core will not precipitate a wholesale evacuation of current residents but will primarily affect the destination selections of that continually present mover pool which comprises a relatively constant proportion of the total population from city to city.").

47. *Id.*

48. Clark, *supra* note 23, at 214–15.

49. See W. DENNIS KEATING, *THE SUBURBAN RACIAL DILEMMA: HOUSING AND NEIGHBORHOODS* 11–15 (1994) (discussing black suburbanization and observing that more than "two decades after enactment of the 1968 federal Fair Housing Act, it and companion state and local laws have had little effect on the overall pattern of racial segregation in suburban housing").

50. See, e.g., ANDREW HACKER, *TWO NATIONS: BLACK AND WHITE, SEPARATE, HOSTILE,*

threshold is reached, “white avoidance,” rather than racially-motivated white flight, ensures that racial transition will occur.⁵¹

A fairly representative study is an article published in 1990 by Professor George Galster.⁵² In order to determine the continued relevancy of the tipping point phenomenon, Galster conducted a case study of Cuyahoga County, Ohio, which encompasses all of Cleveland and approximately forty suburbs. Despite the development of several factors between 1970 and 1980, such as improved economic status of minorities, more tolerant racial attitudes, and the advent of “integration management” programs, which should have dampened the incentive to relocate to another community,⁵³ Galster found that the proportion of non-white residents continued to have a strong effect on racial transition. Depending on the prevailing racial attitudes of a given neighborhood, the tipping point could be as low as 5–15%.⁵⁴ But regardless of racial attitudes, residential populations that had integrated consistently began to resegregate when the non-white population in a neighborhood exceeded 55%.⁵⁵

It is important to stress, however, that the racial transition of neighborhoods is not necessarily driven only or even predominantly by race. In the field of housing analysis, “filtering” is the gradual process of households “moving up” to more desirable housing, thus making former neighborhoods available to lower-income households.⁵⁶ This process is likely to occur more rapidly in areas where new housing construction has significantly outpaced growth in the number of new households.⁵⁷ Therefore, insofar as race tends to track socio-

UNEQUAL 36–38 (1992) (stating that residential racial stability is likely only if the proportion of black residents remains at 8% or less); KEATING, *supra* note 49, at 12–13 (discussing concept and debate surrounding tipping points). Professor Thomas Schelling’s theoretical basis for tipping is explored in Part III.B.3.

51. Eleanor P. Wolf, *Northern School Desegregation and Residential Choice*, 1977 SUP. CT. REV. 63, 75–76 (lamenting terminology of white flight because “[w]ith normal residential turnover somewhere between 10% and 20% annually, there need be no accelerated mobility for an area to change from all white to predominantly black in a few years *simply through white avoidance*” (emphasis added)).

52. George C. Galster, *White Flight from Racially Integrated Neighbourhoods in the 1970s: The Cleveland Experience*, 27 URB. STUD. 385 (1990).

53. *Id.* at 386.

54. *Id.* at 391.

55. *Id.* at 395. In 1980, blacks comprised 93% of all minorities in the Cleveland metropolitan area. This relatively simple two-group interaction was one of the reasons that Galster selected Cleveland as a case study. *Id.* at 386–87. Elsewhere in this article, the term “minority” typically denotes non-white population.

56. See THOMAS BIER ET AL., HOUSING SUPPLY AND DEMAND: CLEVELAND METROPOLITAN AREA, 1950–2005, at 7–8 (1988) (“The classic definition of filtering is ‘the changing of occupancy as the housing that is occupied by one income group becomes available to the next lower income group as a result of decline in the market price.’” (quoting RICHARD U. RATCLIFF, URBAN LAND ECONOMICS (1949))). For an excellent discussion of filtering as a fundamental dynamic of urban change, see generally THOMAS BIER, BROOKINGS INST., MOVING UP, FILTERING DOWN: METROPOLITAN HOUSING DYNAMICS AND PUBLIC POLICY (2001), at <http://www.brook.edu/urban/publications/bier.pdf> (last visited Jan. 27, 2002).

57. BIER ET AL., *supra* note 56, at 8.

economic status, the early stages of filtering often can affect the racial composition of a neighborhood despite the fact that the more affluent families (black and white) are leaving primarily for the better housing and amenities of the suburbs. However, after the tipping point has been reached in the later stages of the filtering process, less affluent whites no longer will migrate into the neighborhood. In turn, the reduced demand for housing will depress rents and housing prices, thus facilitating the entry of minority families from the lowest socioeconomic group.

David Rusk's 1995 book, *Cities Without Suburbs*,⁵⁸ offers perhaps the most comprehensive example of the economic and social conditions model. Rusk's primary argument is that central cities that lack the ability to annex adjacent suburbs are significantly more vulnerable to outmigration, higher taxes, crime, blight, and racial and socioeconomic isolation.⁵⁹ Rusk's conclusions are based on a statistical analysis of 522 central cities and 320 metropolitan areas. As a subset of his research, Rusk also compiled a list of twenty-four cities that had passed "the point of no return."⁶⁰ Each of these cities experienced a large population loss (20% or more), had a disproportionate minority population (30% or higher), and an average per capita income among central city residents that was less than 70% of their suburban counterparts. Rusk argues that these cities are unresponsive to conventional methods of urban renewal, noting that "no city past the point of no return has ever closed the economic gap with its suburbs by as much as a single percentage point!"⁶¹

For the sake of simplicity, this article will utilize Rusk's three-pronged "point of no return" analysis to typify the economic and social conditions model. It can be summarized as follows: Central cities are unable to stop the downward spiral of outmigration and concentrated poverty when (1) the population of the city has dropped by more than 20%; (2) more than 30% of the remaining residents are racial minorities; and (3) per capita income in the central city is less than 70% of the same figure in the suburbs. As will be discussed in Part II, all three indices of distress were on a downward trajectory in Cleveland during the 1960s, well before the onset of school desegregation.

C. *Exaggeration of the Desegregation/White Flight Nexus*

Over the past two decades, schools throughout the United States have

58. DAVID RUSK, *CITIES WITHOUT SUBURBS* (2d ed. 1995). Rusk formerly served as mayor of Albuquerque, N.M.

59. *Id.* at 2. Evidence of this dynamic can be found in news stories from the 1970s. See, e.g., *Cleveland Labeled a Victim of Suburbia*, *PLAIN DEALER* (Cleveland), Oct. 2, 1976, at A18 (reporting on study by Brookings Institution that found cities, like Cleveland, which cannot annex new development are generally worse off than those that can).

60. RUSK, *supra* note 58 at 74-77.

61. *Id.* at 75.

undergone a gradual resegregation.⁶² Although the above discussion suggests that this outcome is the product of several complex and interrelated factors, simplified explanations that are reflected in our everyday interactions with friends and neighbors may gain special currency, especially as evidence of supporting social science is periodically reported in the media. Not surprisingly, it is now conventional wisdom to assume that school desegregation *caused* white flight to the suburbs.⁶³

The origins for this commonly held belief partially may be traceable to the extensive and relatively uncritical news coverage given to social scientists, such as James Coleman and David Armor, who claimed to document a causal relationship between desegregation and white flight.⁶⁴ Although the Supreme Court earlier had held that possible white enrollment loss was irrelevant when considering a remedy for past acts of racial discrimination,⁶⁵ expert testimony by Coleman, Armor and others nevertheless became commonplace in school desegregation cases throughout the nation.⁶⁶

By the early 1980s, the testimony of social scientists was beginning to have an impact on judicial decisions.⁶⁷ For example, noted desegregation critic David Armor gave testimony on the likelihood of continued white flight in the Norfolk school system, which the district court relied on in its decision to allow a return to neighborhood schools.⁶⁸ In a Mississippi desegregation case involving expert testimony, the Fifth Circuit ruled that white flight concerns are “legitimate when choosing among constitutionally permissible plans.”⁶⁹ The potential impact of

62. See GARY ORFIELD & JOHN T. YUN, RESEGREGATION IN AMERICAN SCHOOLS (1999), available at <http://www.law.harvard.edu/civilrights/publications/resegregation99.html> (discussing national trends in school resegregation; presenting supporting tables of data); Kunen, *supra* note 17, at 39–40 (discussing the end of remedial orders in a number of cities and the subsequent resegregation).

63. See *supra* notes 1, 9–11 and accompanying text.

64. See Orfield, *supra* note 19, at 147–49 (discussing intense media coverage given to Armor and Coleman with little coverage of their critics). The Coleman report is discussed in Part I.A.

65. See *United States v. Scotland Neck Bd. of Educ.*, 407 U.S. 484, 491 (1972) (White enrollment loss cannot “be accepted as a reason for achieving anything less than complete uprooting of the dual public school system.”).

66. See ARMOR, *supra* note 23, at 13, 175 (reporting that expert studies and testimony “became commonplace in desegregation cases during the late 1970s”; discussing his own testimony in various cases); Orfield, *supra* note 19, at 147 (reporting that despite angry scholarly debate regarding his study, Coleman began testifying for defendants, including in the contentious Louisville and Boston cases, shortly after publication of his study). Harvard sociologist Nathan Glazer testified in the Cleveland desegregation trial, opining that the Cleveland schools would be 80% black in a few years if mandatory busing were implemented. Christine J. Jindra & Thomas H. Gaumer, *Expert Opposes Forced Busing*, PLAIN DEALER (Cleveland), Feb. 3, 1976, at A1. In 1976, black students comprised 59% of the total enrollment in the Cleveland public schools. In 1979–80, when busing finally was implemented, the figure had risen to 64%. Over the last two decades, the percentage has gradually risen to 70%. See Appendix B.

67. See ARMOR, *supra* note 23, at 13.

68. *Id.* at 79–81, 175 (discussing Riddick v. School Bd. of Norfolk, 627 F. Supp. 814 (E.D. Va. 1984), *aff’d*, 784 F.2d 521 (4th Cir. 1986)).

69. ARMOR, *supra* note 23, at 175–76 (quoting *United States v. Pitman*, 808 F.2d 385, 391

white flight therefore was relevant when choosing between mandatory pupil reassignments (i.e. busing) or voluntary enrollment in magnet schools.

In the district court trial of *Missouri v. Jenkins*,⁷⁰ experts for both the defendants and the plaintiffs provided testimony on the issue of white flight, causing the trial judge to conclude that “further mandatory student reassignment at this time will only serve to increase the instability of the [Kansas City, Missouri school district] and reduce the potential for desegregation.”⁷¹ Instead, the court ordered a massive state-funded magnet program designed to attract white student enrollment from the suburbs.

In 1995, the Supreme Court in *Jenkins III* struck down the magnet program as an impermissible interdistrict remedy,⁷² rejecting the findings of the district court and the Eighth Circuit that de jure segregation actually had caused white flight to the suburbs: “The lower courts’ ‘findings’ as to ‘white flight’ are both inconsistent internally, and inconsistent with the typical supposition, bolstered here by the record evidence, that ‘white flight’ may result from desegregation, not de jure segregation.”⁷³ In a concurring opinion, Justice Thomas went on to express amazement that the district court would attempt to create a magnet district that “would reverse the ‘white flight’ caused by desegregation.”⁷⁴

The Court’s endorsement of a strong causal relationship between school desegregation and white flight is ironic in light of the underlying facts of *Jenkins*, and the precedent it relied upon, *Milliken v. Bradley*.⁷⁵ In *Jenkins*, two decades of white outmigration to the suburbs already had left the Kansas City, Missouri school district 65% black when the desegregation litigation commenced in 1976.⁷⁶ When the creation of the magnet schools was ordered in 1985, after an eight-year period of mandatory student reassignments, the black enrollment had only increased to 68.3%.⁷⁷ In the 1972 trial court version of *Milliken I*, the black enrollment in the Detroit public schools had already reached 67%, causing the district court to conclude that desegregation could only be

(5th Cir. 1987)). The expert in this case was Professor Christine Rossell.

70. 639 F. Supp. 19 (W.D. Mo. 1985), *aff’d*, 807 F.2d 657 (8th Cir. 1986), *rev’d by* 515 U.S. 70 (1995).

71. *Id.* at 38. The trial court relied on white flight testimony from both defendants and plaintiffs. *See id.* at 36–38.

72. *Missouri v. Jenkins*, 515 U.S. 70, 97 (1995) (*Jenkins III*) (“A district court seeking to remedy an *intradistrict* violation that has not ‘directly caused’ significant interdistrict effects . . . exceeds its remedial authority if it orders a remedy with an interdistrict purpose.” (citing *Milliken v. Bradley*, 418 U.S. 717, 744–45 (1974))).

73. *Id.* at 94–95 (footnotes omitted).

74. *Id.* at 114 (Thomas, J., concurring) (emphasis added).

75. 418 U.S. 717 (1974) (*Milliken I*).

76. *See* Alison Morantz, *Money and Choice in Kansas City: Major Investments With Modest Returns*, in *DISMANTLING DESEGREGATION*, *supra* note 8, at 241, 244–51 (reviewing context of litigation).

77. *Jenkins*, 639 F. Supp. at 38.

accomplished through an interdistrict remedy between the city and the surrounding suburbs.⁷⁸

Because the vast majority of white families already had exited both Detroit and Kansas City prior to the commencement of desegregation litigation, it is hard to understand why the *Jenkins* Court went out of its way to identify court-ordered desegregation as a primary cause of white flight from central city school districts without also acknowledging the obvious roles played by other factors.⁷⁹ Restated in the terminology of this article, the Supreme Court exaggerated the importance of the desegregation/white flight model and totally ignored the explanatory power of the economic and social conditions model.

II.

CLEVELAND: A CRITICAL CASE STUDY

The goal of Part II is to assess the relative importance of the desegregation/white flight model and the economic and social conditions model as applied to the Cleveland metropolitan area, before, during, and after the controversial 1976 district court ruling in *Reed v. Rhodes*. As discussed earlier, this case continues to get a disproportionate share of blame for the ongoing failure of the Cleveland public schools, thus distorting the educational reform debate and creating the false impression that the hotly contested voucher program is the only hope left for Cleveland students.⁸⁰ Part II presents evidence that longstanding economic and social trends can better explain the decline of

78. *Milliken I*, 418 U.S. at 764–66 & nn.1–2 (White, J., dissenting) (quoting the district court, “[t]he conclusion, under the evidence in this case, is inescapable that relief of segregation in the public schools of the City of Detroit cannot be accomplished within the corporate geographic limits of the city”); discussing increasing percentages of black students). The Supreme Court’s foreclosure of this type of relief in *Milliken I* made any type of meaningful desegregation in Detroit impossible, setting the stage for the Supreme Court to mandate substantial additional state funding in lieu of racial balance in *Milliken II*. See *Milliken v. Bradley*, 433 U.S. 267 (1977) (*Milliken II*) (upholding order for funding of educational program in order to remedy harm of past discrimination).

79. Cf. Ryan, *supra* note 8, at 282 (discussing evidence that “white suburban flight [may be] an independent phenomenon and has occurred in cities, such as New York and Atlanta, whose schools have never undergone desegregation” (footnote omitted)).

Several months prior to the ruling in the 1976 Cleveland desegregation case, the superintendent of the Cleveland schools observed: “I am convinced there is no way numerically to desegregate only the Cleveland schools even if there were no busing or no white flight. Our school system would be segregated because we are short of white students. The only way this could be worked out is on a metropolitan basis.” Thomas H. Gaumer, *Briggs on Segregation: Cleveland’s Superintendent Holds That Housing Patterns Determine Makeup of the Schools*, SUNDAY PLAIN DEALER MAG. (Cleveland), Feb. 8, 1976, at 28, 31.

80. Cf. *Simmons-Harris*, 234 F.3d at 974 (Ryan, J., dissenting) (focusing directly on the plight of affected students, Judge Ryan declared, “This case and its result—sentencing nearly 4000 poverty-level, mostly minority, children in Cleveland to return to the indisputably failed Cleveland public schools from which, in many cases, they escaped as long as three years ago—is an exercise in raw judicial power having no basis in the First Amendment or in the Supreme Court’s Establishment Clause jurisprudence.”).

public education in Cleveland. It then extends this analysis to demonstrate that the same forces that precipitated the decline of Cleveland and its public schools now can be observed as having the same corrosive effect on low-achieving suburban districts—communities with no history of school desegregation, yet now sharing similar indices of racial and socioeconomic isolation.

Part II is comprised of four sections. Part II.A examines data and historical sources on the economic and social conditions in Cleveland prior to the implementation of busing. Part II.B examines the Cleveland desegregation order and looks at enrollment and outmigration data in the period immediately before and after the implementation of busing. Part II.C resumes the narrative on the economic and social conditions model, looking at the period from 1980 to 1998. Finally, Part II.D examines the powerful nexus that exists between educational outcomes and the socioeconomic composition of various communities in the Cleveland metropolitan area. This last section relies on a spatial analysis of race, socioeconomic, and school performance for the seven-county metropolitan area that is centered around the city of Cleveland. The corresponding maps are located in Appendix A.

Part II is organized chronologically, with one exception. The discussion on the middle-class outmigration in Part II.A, which is relevant primarily to the economic and social conditions model from the early 1900s to 1979, partially overlaps in time with the discussion of the desegregation decision in Part II.B, which covers the period from 1976 to 1980. For the purposes of this article, the most significant event in this chronology is August 31, 1976. On this date, Judge Battisti issued his decision in *Reed v. Rhodes*, holding that Cleveland and state officials intentionally had fostered and maintained a policy of racial segregation.⁸¹

Three other dates also are worthy of mention. In February of 1978, Judge Battisti issued a comprehensive desegregation remedy for the Cleveland schools, which included mandatory pupil reassignments along with several other remedial features.⁸² After a prolonged period of delay, attributable in part to additional litigation⁸³ and in part to the logistical difficulties of acquiring a sufficient number of buses,⁸⁴ the busing remedy was implemented at the high school level

81. *Reed*, 422 F. Supp. at 797 (“It is the finding of this court that the Cleveland Board of Education and the State Board of Education, through their constituent members and their appointed superintendents, have violated the plaintiffs’ Fourteenth Amendment right to equal protection under the laws by intentionally fostering and maintaining a segregated school system with the Cleveland public schools.”). After the Sixth Circuit remanded this decision to reconsider his findings of fact and conclusions of law in light of *Dayton Bd. of Educ. v. Brinkman*, 433 U.S. 406 (1977), Judge Battisti reiterated and affirmed his findings in their entirety. *Reed v. Rhodes*, 455 F. Supp. 546 (N.D. Ohio 1978).

82. *Reed*, 455 F. Supp. at 569, 597–603 (N.D. Ohio 1978) (also mandating the creation of programs in remedial reading, testing, counseling, staff training, and magnet schools).

83. See notes 276–77 and accompanying text.

84. Christopher Jensen, *Battisti Says It Again to State Aides: Get the School Desegregation Buses*, PLAIN DEALER (Cleveland), June 24, 1978, at A12 (reporting that “state officials began with

in September of 1979.⁸⁵ Although the busing program was temporarily disrupted due to a lengthy teachers' strike,⁸⁶ implementation at the primary and middle school level was complete in October of 1980.⁸⁷ For ease of reference, this article has consolidated several other dates into two thematic timelines, which are set forth in Tables 1 & 2. These dates are important because they define the implementation period of the desegregation. Under the white flight/desegregation model set forth in Part I.A, the vast bulk of all white enrollment losses should occur during this time frame.

Table 1: Economic and Social Conditions, City of Cleveland

Year	Cleveland Population	% Drop from Peak	Black Population	% Blacks of City Total	Per Capita Income in City	Per Capita Income in Suburbs	% Income of City to Suburbs
<i>Economic & Social Conditions Model</i>		< -20%		> 30%			< 70%
1950	914,808	0%	144,585	16.4%	\$1104	\$1175	85.4%
1960	876,050	-4.2%	255,310	29.1%	\$1856	\$2194	74.8%
1970	750,879	-17.9%	287,841	38.3%	\$2849	\$4147	68.7%
1980	573,822	-37.3%	251,084	43.8%	\$5770	\$9152	63.0%
1990	505,616	-44.7%	235,053	46.5%	\$9258	\$17,317	53.5%
2000	478,403	-47.7%	243,939	51.0%	[Data Not Yet Available]		

Figures in bold exceed the "point of no return" thresholds discussed in Part I.B.

Source: Data from U.S. Census, calculations done by author.

at least eight interested bus companies . . . [who] either withdrew from negotiations voluntarily or were disqualified because they lacked experience or could not provide enough buses," and that the sole remaining company insisted on payment guarantees which conflicted with state law and procedures); Peter Almond, *Buses Needed; School Integration Could Stall*, CLEV. PRESS, May 24, 1977, at A2 (noting that busing plan presents "problems in financing, obtaining and operating a large number of buses").

85. See Stephen P. Adams & Christopher Jensen, *First Day's Busing Goes Peacefully*, PLAIN DEALER (Cleveland), Sept. 11, 1979, at A1; *Buses Roll Peacefully—Some Mixups, Absentees*, CLEV. PRESS, Sept. 10, 1979, at A4.

86. See *supra* notes 200–08 and accompanying text.

87. See *Full Desegregation of Schools Will Be Finished Thursday*, PLAIN DEALER (Cleveland), Sept. 29, 1980, at A1 (reporting start of Phase 3 of desegregation plan, which included elementary schools); Bud Weidenthal, *All In All, School Desegregation Is Going Well*, CLEV. PRESS, Oct. 4, 1980, at A6 (reporting that first full week of complete desegregation went smoothly).

Table 2: Time Line on the Cleveland Desegregation Decision

<i>Date</i>		<i>Event</i>
1964	Apr.	Protesters gather at construction site to protest pattern of building schools only in all white or all black neighborhoods, thus maintaining racial segregation. Rev. Bruce Klunder lays down in the path of a bulldozer and is accidentally crushed to death.
	July	District court denies an injunction to stop the construction of new school buildings, which NAACP alleged was part of a policy of racial containment. <i>See Craggett v. Board of Ed., of Cleveland</i> , 234 F. Supp. 381 (N.D. Ohio 1964).
	Aug.	Board hires Paul Briggs as superintendent. Briggs embarks on a \$220 million construction program which would later become damning evidence of discriminatory intent.
1967-1968		Enrollment in the Cleveland public schools peaks at 153,253.
1970-1971		Enrollment declines to 150,707. Minority students comprise 59.3% of total.
1973	Dec.	NAACP files <i>Reed v. Rhodes</i> , a class action lawsuit against Cleveland and state school officials.
1974		Birth rates for both black and white females finally bottom out after a steady twenty-year decline. Rates remain relatively constant through 1980. This fact alone ensures large enrollment drops for the next several years.
1975		Cleveland enters a recession, leading to significant job losses in manufacturing.
1976	May	Cleveland newspaper reports that county population loss is highest in nation.
	Aug.	Judge Battisti finds school officials guilty of racial discrimination and enjoins construction of any new school buildings; remedy awaits report of special master.
1976-1977		Enrollment declines to 122,727. Minority students make up 62.2% of total.
1977	Oct.	Cleveland schools lack funds to meet payroll; school officials acknowledge that fiscal crisis is entirely separate from desegregation decision.
1978	Feb.	Remedial order that includes mandatory pupil reassignments is formally adopted.
	June	After alienating the business community, Mayor Kucinich survives a recall election by 236 votes.
	Sept.	Cleveland teachers protest low pay and go on month long strike.
	Dec.	Cleveland becomes the first major city to enter default since the Great Depression. City is forced to make drastic layoffs, including police and fire protection.
1978-1979		Enrollment declines to 104,676. Minority students comprise 67.6% of total.
1979	Jan.	Sixth Circuit stays busing order pending the disposition of <i>Columbus Bd. of Educ v. Penick</i> , 443 U.S. 449 (1979).
	July	The Supreme Court affirms <i>Penick</i> , 443 U.S. 916 (1979). Order delaying busing is lifted.
	Sept.	Busing program for Cleveland high schools begins peacefully.
	Oct.	Cleveland teachers protest low pay and go on strike. The strike lasts for eleven weeks and ends in January 1980. District loses approximately 4000 pupils during this period.
1979-1980		Enrollment declines to 92,558. Minority students comprise 68.6% of total.
1980	Mar.	Supreme Court denies certiorari to Cleveland case; three Justices dissent. 445 U.S. 936 (1980).
1980	Oct.	Busing is fully implemented at primary and middle schools throughout district.
1980-1981		Enrollment declines to 80,767. Minority students comprise 72.1% of total.

Sources: Events are discussed and cited in body of this article.

A. *Economic and Social Conditions in Cleveland, 1900–1979*

This section examines the growth of the Cleveland metropolitan area from the early 1900s until the commencement of busing in the fall of 1979. It documents the origins of middle-class outmigration and chronicles the increasing momentum of the economic, social, and demographic trends that were reshaping the region.

1. *Advent of the Middle-Class Suburb in Cleveland*

Although commonly thought of as a baby boom phenomenon, the suburbanization process actually began much earlier in many northern industrial cities.⁸⁸ The first suburbs in Cleveland began to grow in the early 1900s with the invention and mass production of the automobile, which permitted affluent workers to move further from the city and still conveniently commute.⁸⁹ After a lull in the building cycle due to World War I, many Clevelanders were increasingly drawn to the suburbs of Cleveland Heights and Shaker Heights (“the Heights”). Situated along the city’s eastern border, these communities began adding many high quality homes for affluent families during the 1920s.⁹⁰

As the suburbanization process took hold, the 1940 Census provided Cleveland officials with some disturbing news. During the 1930s, the city lost 2.4% of its population, the biggest loss of any major city in the country.⁹¹ Business officials were so startled by these results that they commissioned a study to determine the source of the decline. The 1941 report concluded:

[T]here is a basic trend of migration which for the past decade has been from the older established sections to the relatively underdeveloped communities on the periphery of the metropolitan area A major portion of the population of Cleveland which has the highest standards of living and the most desirable characteristics from a civic viewpoint is leaving corporate Cleveland. From a dollars and cents standpoint, the population trends outlined above have reached significant proportions.

88. See, e.g., SAM BASS WARNER, JR., *STREETCAR SUBURBS, THE PROCESS OF GROWTH IN BOSTON (1870–1900)* (2d ed. 1978) (discussing development of suburbs in Greater Boston in the late 1800s, including the associated socioeconomic stratification); Mieskowski & Mills, *supra* note 42, at 140 (observing that in “virtually all older metropolitan areas along the eastern seaboard and in the midwest the population growth of central cities was quite modest after 1930, with virtually all growth occurring in the suburban rings”).

89. See Thomas E. Bier, *Housing Dynamics of the Cleveland Area, 1950–2000* (identifying East Cleveland, Bratenahl, and Lakewood as the first Cleveland suburbs), in *CLEVELAND: A METROPOLITAN READER* 244, 248 (W. Dennis Keating et al. eds., 1995).

90. See THOMAS BIER & IVAN MARIC, *CUYAHOGA COUNTY OUTMIGRATION* 2–3 (1993).

91. See *id.* (noting that during the same period, Detroit grew by 3.2%, Pittsburgh lost 0.7%, and St. Louis lost 1.0%).

If they are permitted to continue without hindrance, the whole structure of the central city is jeopardized⁹²

Although residential construction in the Cleveland area generally came to a standstill during World War II, the eventual return of military personnel resulted in a major housing shortage.⁹³ In 1950, Cleveland's population reached an all-time high of 914,800, and the city's vacancy rate was a minuscule 0.3%.⁹⁴ At the same time, new housing construction was beginning to soar. During the 1950s, the Cleveland area added 150,000 housing units; of this total, 83% were built outside the city limits.⁹⁵ Suburbs such as Parma, Euclid, and Maple Heights specialized in relatively small, affordable bungalows that were especially attractive to young families. According to one Cleveland housing specialist, the exodus to these newer communities "made, numerically speaking, the 1920s seem like a Sunday stroll. Middle-class and blue collar households by the tens of thousands swamped the roads out that were first taken by Cleveland's wealthy 40-50 years earlier."⁹⁶

Throughout the post-WWII era, Cleveland's housing market had been dominated by a pattern of outmigration.⁹⁷ The first stage of this development was primarily limited to communities in Cuyahoga County. Abetted by the expansion of the regional freeway system, the demand for suburban housing eventually extended to adjacent counties. These newer communities typically implemented large lot-size requirements for the construction of new homes, thus offering commuters an upscale, semirural atmosphere. As can be seen in Chart 1, more than 72% of all Clevelanders lived in Cuyahoga County prior in 1940. After thirty years of explosive growth in the surrounding county and metropolitan areas, this same figure had dropped to 42.3% by 1970. Despite the regional growth, population in the city of Cleveland began to decline after 1950. Cleveland's largest drop in population occurred between 1970 and 1980. Yet during this same period, the surrounding county and the seven-county MSA experienced nearly identical declines.⁹⁸

The underlying market factors of housing supply, demand, and the location of new residential construction play a critical role in explaining the changing population patterns in metropolitan Cleveland.⁹⁹ As can be seen in Table 3,

92. L.S. ROBBINS, *DECENTRALIZATION: A PROBLEM IN CLEVELAND'S FUTURE* (1941), quoted in BIER & MARIC, *supra* note 90, at 3.

93. BIER ET AL., *supra* note 56, at 1.

94. *Id.*

95. *Id.* at 3.

96. BIER & MARIC, *supra* note 90, at 3-4.

97. *See id.* at 1.

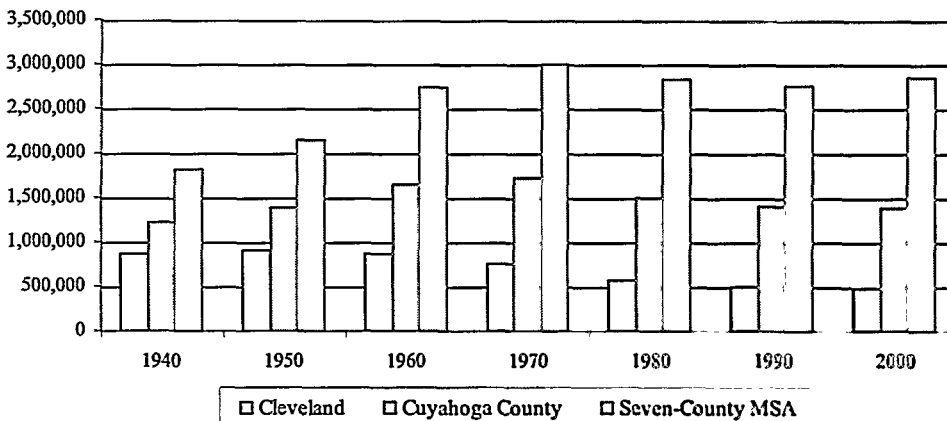
98. For historical population data on Cleveland, Cuyahoga County, and the seven-county MSA, see Appendix D.

99. *See* BIER ET AL., *supra* note 56, at 6-9 (discussing model for projections of future Cleveland population which analyzed history of housing supply and demand and location of new housing).

from 1950 to 1979, construction of new housing units in the metropolitan area consistently outpaced the growth in new households, with the vast majority of this new construction taking place in the suburbs. One reason for this imbalance is the fact that the city of Cleveland had long ago depleted its supply of developable land. As a result, there was no place to build new subdivisions with the type of housing stock that was in demand by young families. A second reason, however, was the sheer volume of land available in adjacent suburbs and counties. As one Cleveland housing analyst noted, “Before 1980, land for the expansion of outer suburbs around Cleveland was inexpensive.”¹⁰⁰

Because suburban housing in Greater Cleveland generally remained fully occupied between 1950 and 1979, the brunt of the region’s overcapacity fell on the city of Cleveland. During this period, large numbers of older houses and apartments either were demolished or abandoned, resulting in less densely populated but more blighted neighborhoods.¹⁰¹ In contrast, the suburban life-style had become fashionable and offered a range of amenities not available in

Chart 1: Population in Cleveland Metropolitan Area, 1940–2000



Source: U.S. Census

the city.¹⁰² Through the filtering process, the continued expansion of housing on the periphery gradually “pulled” people from Cleveland to the adjacent suburbs. Thus, from a historical and demographic perspective, Cleveland housing analysts summarized the period from 1950 to the early 1980s as virtually following a mathematical formula: “Analytically . . . the population living in the city of Cleveland at any point was that remaining after all the suburban supply was

100. Bier, *supra* note 89, at 254.

101. See BIER ET AL., *supra* note 56, at 3–4 (discussing demolition, abandonment and abnormally high vacancy rates in Cleveland from 1950 to the early 1980s compared to relatively full occupancy in surrounding suburbs during the same period).

102. For example, modern single-family homes with larger lot sizes, greater personal privacy, better and less congested recreation opportunities, less street traffic, and more green space.

occupied. In effect, it was the amount of housing in the suburbs . . . that determined the population level of Cleveland.”¹⁰³

**Table 3: Construction Activity, Household Growth and Change,
Cleveland Metro Area, 1950–1979**

Decade	Metropolitan Region		Ratio	Change in # of Households	
	Construction	Household Growth		Suburbs	Cleveland
1950s	150,000	121,000	1.2	117,500	4000
1960s	130,000	82,000	1.6	103,600	-21,600
1970s	90,000	44,300	2.0	74,300	-30,000
Total	370,000	247,300	1.5	295,400	-47,600

Source: THOMAS BIER ET AL., HOUSING SUPPLY AND DEMAND:
CLEVELAND METROPOLITAN AREA, 1950–2005 (1988)

2. Movement of Black Households to the Suburbs, 1960–1979

In many respects, the phrase “white flight” is an inaccurate description of the decline of Cleveland and its public schools. As household incomes began to grow and problems of racial discrimination and intimidation gradually diminished, increasing numbers of black families in Cleveland also began relocating to the suburbs. In 1960, the black population in Cuyahoga County was 255,310 while the black population in the city of Cleveland was 250,818. Thus, approximately 98% of all black households in the region were located in city of Cleveland. By 1970, the black population in Cuyahoga County had risen to 328,419, but only 287,841, or 88%, lived in Cleveland. By 1980, the black population in the county rose slightly to 340,827, but only 251,084, or 74%, were Cleveland residents. These trends are set forth in Chart 2.

The first Cleveland suburb to experience a substantial influx of black residents was the city of East Cleveland.¹⁰⁴ Although it shared a border with Glenville, a predominately black section of Cleveland, by 1960 only 2% of East Cleveland’s population was black.¹⁰⁵ Aided by a process known as “block-busting,” where realtors solicit new business by contacting area residents and emphasizing the changing racial composition of their neighborhood, the black population of East Cleveland increased to 67% by 1970.¹⁰⁶ Although the first

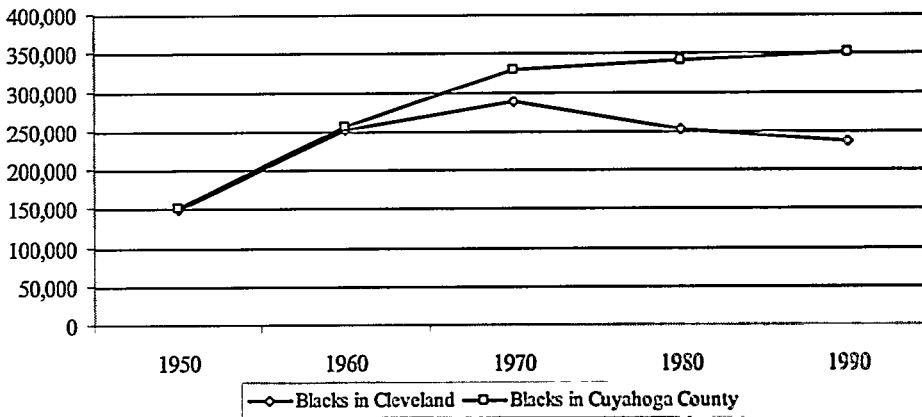
103. BIER ET AL., *supra* note 56, at 8.

104. See KEATING, *supra* note 49, at 77 (chapter five focuses entirely on the integration and rapid resegregation of East Cleveland).

105. *Id.* at 81.

106. *Id.* at 73, 91. Keating describes the resegregation of East Cleveland as a three stage process: (1) during the early 1960s, whites uncomfortable with an increasing black presence migrated out; (2) during the mid-1960s, whites fled to avoid the economic loss from dropping real estate prices caused by blockbusting; and (3) during the late 1960s and into the 1970s, remaining

Chart 2: Black Population in Cleveland, Cuyahoga County, 1950–1990



Source: U.S. Census

black families to migrate to East Cleveland typically had a higher household income than black families in neighboring Cleveland, the flooding of the real estate market dramatically reduced home prices within the suburb, thus producing “an exaggerated version of the ‘filtering’ process” and making more housing available to lower-income residents.¹⁰⁷ By 1971, the City Manager commented to the national media, “We are an inner-city suburb with all the problems of the central city.”¹⁰⁸

Residents and officials in the prestigious suburbs of Cleveland Heights and Shaker Heights had observed the rapid racial transition in East Cleveland and were determined to avoid a similar fate. During the 1960s, both communities implemented bans on “for sale” signs in order to counteract the effects of blockbusting by real estate agents.¹⁰⁹ By the early 1970s, both Shaker and Cleveland Heights had implemented programs to facilitate positive and stable housing integration.¹¹⁰ Officials in these suburbs, however, became convinced that the success of their programs depended upon successful integration in other suburban communities throughout Greater Cleveland. Thus in 1974, Heights community activists launched the Cuyahoga Plan, which was designed to serve as a regional fair housing organization.¹¹¹ The organization’s central mission

whites who supported integration became discouraged and gradually left. *Id.* at 84.

107. *Id.* at 81.

108. *Id.* at 92 (quoting P. Delaney, *Outer City: Blacks Find Few Tangible Gains*, N.Y. TIMES, June 1, 1971).

109. *Id.* at 116–17 (reporting passage of no-sign ordinances in 1964 for Shaker Heights and 1967 for Cleveland Heights).

110. For a comprehensive discussion of integration in both Heights communities, see *id.* at 96–139; see also Galster, *supra* note 52, at 388–89 (studying effects of city programs on predicted levels of white flight during the 1970s, and noting that during the 1960s, “both [Shaker Heights and Cleveland Heights] voluntarily initiated roughly comparable, publicly funded, comprehensive plans for integration management”).

111. See KEATING, *supra* note 49, at 168–72; Bob Modic, *Cuyahoga Plan; Hope for*

was to combat racial discrimination in rentals and home sales, to reduce the pattern of racial isolation, and to promote permanent integration throughout the Cleveland area.¹¹²

By the mid-1970s, Cleveland newspapers were routinely reporting the influx of black households into the predominantly white suburbs.¹¹³ According to one housing advocate quoted in a 1976 article, black and white families often had similar motivations: "The reasons for moving are the same [for black and white families], to get away from crime and the declining quality of life in the city. And as more move up the ladder economically, more will move to the suburbs."¹¹⁴ The same article also discussed a growing consensus that black flight could prove to be just as serious as white flight: "If middle-class blacks join whites in abandoning the city and the city schools, thereby further eroding the tax base, the inner city will become ever poorer."¹¹⁵ These observations were made eight months before a verdict was rendered in the Cleveland desegregation case and nearly four years before the implementation of court-ordered busing. The outmigration frequently attributed to Judge Battisti's order needs to be understood against this backdrop.

3. Regional Population Loss and Deindustrialization, 1970s

From 1970 to 1980, the population of the city of Cleveland declined from 750,879 to 573,822. Although court-ordered busing in the Cleveland public schools is frequently blamed for pushing middle-class families out of the city and into the suburbs,¹¹⁶ the entire metropolitan area was losing a significant

Integrated Housing Here, CLEV. PRESS, Jan 2, 1976, at A1 (discussing mission of organization and board participation by prominent citizens).

112. KEATING, *supra* note 49, at 170.

113. See, e.g., *Black Flight: More Middle-Class Families Are Moving to the Suburbs*, PLAIN DEALER (Cleveland), Jan. 5, 1976, at A12 (discussing nationwide trend in Cleveland and elsewhere); John F. Hagan, *Integration Is Working: Trend Seen In County*, PLAIN DEALER (Cleveland), Aug. 14, 1979, at A6 (discussing increased but uneven integration in area's public elementary schools); Bob Modic, *Ludlow Is Still Trying To Be a Model*, CLEV. PRESS, Mar. 4, 1976, at B6 (discussing gradual integration of Ludlow neighborhood in Shaker Heights and noting that it remains "soundly integrated with an estimated 45% white residents and a relatively small turnover of homes year to year"); Linda Stanch, *This Little Town Went to Market*, SUNDAY PLAIN DEALER MAG. (Cleveland), Nov. 6, 1977, at 18 (discussing increase of Cleveland Heights' black population from 1% in 1970 to an estimated 16-17% in 1977; reporting use of advertising firm to promote city's racial diversity); Bud Weidenthal, *Suburbs—How They Integrate: Races Mixed In Many Schools*, CLEV. PRESS, Apr. 4, 1977, at A1 (reporting black enrollment "in every suburban district in the three-county area, with the exception of Rocky River and Cuyahoga Heights"); *White Suburbs Becoming Rare*, CLEV. PRESS, Mar. 27, 1979, at C6 (reporting study by Cuyahoga Plan that "for the first time, a dispersed but significant black population [resides] in suburban areas west of the Cuyahoga River").

114. *Black Flight*, *supra* note 113, at A12 (quoting Sarah Austin, Vice President of the Urban Coalition).

115. *Id.* (discussing consensus among experts and individuals interviewed for the story).

116. See Larkin, *supra* note 4, at F1 (claiming that the busing order "devastated [the city's] population base").

portion of its residents throughout the decade.¹¹⁷ During the first half of the 1970s, researchers learned that Cuyahoga County was undergoing the largest percentage population loss of any major county in the Midwest.¹¹⁸ The city of Cleveland had long been losing residents, but in June 1976, one local pundit expressed both surprise and concern by the same trend affecting the entire region:

There is a stigma attached to population loss. In Cleveland it is assumed that if people leave it is because of poor housing, crime and troubled schools, busing or not, and because of the rank deterioration of what anyone could even remotely call city services The loss of population in the seven-county area centered on Cleveland is downright frightening to many. After all, the bromides about people moving to the fresh air of the country—and the platitudes about how everything is all right because people are only crossing county lines—cannot be true if the whole area loses.¹¹⁹

Two 1977 news stories that followed up on recent Cleveland emigrants found that people were moving for a wide variety of reasons, including job transfers, warmer weather, better housing, a lower cost of living, and to escape high crime rates, slum neighborhoods, and air pollution.¹²⁰ Although one woman listed the possibility of busing for her son as one reason for her departure,¹²¹ reporters examining the predominantly white west side neighborhoods found that most real estate activity was not attributable to the desegregation controversy.¹²² A second look during the summer of 1978 found

117. See Chart 1 (graphing the populations of Cleveland, Cuyahoga County, and the seven-county MSA).

118. See Thomas S. Andrzejewski, *Everywhere Beats This Area in Maintaining Population*, PLAIN DEALER (Cleveland), Jan. 13, 1977, at A1 (reporting that “people are leaving Cuyahoga County and the Cleveland standard metropolitan statistical area (SMSA) at a greater rate than elsewhere in the nation”); Thomas S. Andrzejewski, *So Long: People Moving out of Cuyahoga County Faster Than Expected*, PLAIN DEALER (Cleveland), July 13, 1976, at A1 (reporting finding that “[p]ersons have been moving out of Cuyahoga County, mainly to destinations outside Ohio, at greater rates than had been anticipated”); Thomas S. Andrzejewski, *Suburbs Here Losing People Just Like City: Report Projects County’s Exodus*, PLAIN DEALER (Cleveland), May 18, 1976, at B2 (reporting conference finding that “around 1970, the [Cleveland] suburbs suddenly stopped becoming importers of people and are now exporters”).

119. Thomas S. Andrzejewski, *Where Is Everybody Going? Population Projections Slide in 7-County Area*, PLAIN DEALER (Cleveland), June 2, 1976, at A15.

120. Nancy Bigler Kersey, *The New Emigrants*, SUNDAY PLAIN DEALER MAG. (Cleveland), Apr. 3, 1977, at 24 (interviewing former residents of Greater Cleveland and discussing motivations for leaving); Carl Kovac, *There Are Many Reasons Why Clevelanders Play the Moving Game*, SUNDAY PLAIN DEALER MAG. (Cleveland), Apr. 3, 1977, at 16 (same).

121. See Kovac, *supra* note 120, at 20–21.

122. See Bob Brennan & Sandy Banks, *Busing Reaction: Few Sell Homes to Flee Desegregation*, CLEV. PRESS, June 21, 1978, at A4 (analyzing report from real estate listing service and reporting that “while the number of homes for sale in Cleveland is up dramatically, most homeowners are selling for reasons other than desegregation. And the real estate picture in the city is not out of line with what is happening in the suburbs”; reporting increase in real estate listings of

that real estate listings on the city's west side had increased by 14%, but that listings throughout Greater Cleveland were up 18.8%, causing one real estate columnist to remark, "The impact of court-ordered school busing on Cleveland home sales continues to be elusive."¹²³

Even if school desegregation was not the driving force for many of the home sales in Cleveland, the underlying pattern of outmigration from the central city and inner-ring suburbs continued. Midway through the 1970s, the U.S. Bureau of Census calculated that the total population of Cuyahoga County shrank by 7.5%.¹²⁴ However, among individual suburbs in Greater Cleveland, which is comprised of Cuyahoga County and the developing fringes of six other counties (see Map 1), twenty-eight municipalities lost population while thirty-one posted gains, with much of this growth occurring outside of Cuyahoga County.¹²⁵ Consistent with the "filtering" process discussed in Part I.B, the outward movement of a declining population base was facilitating a relatively inexpensive exit from the urban core.

Although several inner-ring suburbs were beginning to show significant signs of decay,¹²⁶ social conditions were deteriorating most rapidly in the city of Cleveland. According to a 1976 survey of Cuyahoga County residents conducted just two weeks prior to the desegregation decision, Cleveland residents expressed much higher levels of dissatisfaction over city services, housing, neighborhood safety, and access to shopping and entertainment.¹²⁷ When asked to explain the significance of his findings, the professor conducting the study remarked, "My guess is that [the results] may be an objective view of reality, that indeed the services are better in the suburbs. It's shocking how consistent the results are."¹²⁸

26% on west side, 24.8% on east side, and 23.6% in suburbs). On the same day, the Cleveland *Plain Dealer* ran a similar story that came to the exact opposite conclusion. However, the reporters failed to compare real estate activity on the west side with east side and suburban trends. See Robert Daniels & John F. Hagan, *Many Families Flee West Side*, PLAIN DEALER (Cleveland), June 21, 1978, at A1 (reporting anecdotal evidence of flight and other reasons for leaving).

123. Bob Brennan, *Second Look Finds No Forest of For-Sale Signs*, CLEV. PRESS, July 22, 1978, at D8. It should be noted that this evidence is consistent with the social science literature finding that most flight attributable to desegregation results from families utilizing private schools within their current district. See Clark, *supra* note 23, at 214.

124. See Editorial, *In Step with the '70s*, PLAIN DEALER (Cleveland), May 30, 1977, at B2 (arguing that underlying patterns of outmigration, both out of the region and out of the urban core, should not be source of alarm).

125. *Id.* (setting forth data from U.S. Bureau of Census).

126. See, e.g., Emanuel Hughley, Jr., *City's Satellites Strive to Reverse Their Decay*, CLEV. PRESS, May 17, 1978, at A1 (discussing disbursement of federal funds to several suburbs to combat blight, with largest grants going to three suburbs directly adjacent to the city of Cleveland).

127. See Thomas S. Andrzejewski, *Suburban Living Gets High Rating; City Far Behind in Safety, Convenience, CWRU Survey Finds*, PLAIN DEALER (Cleveland), Aug. 18, 1976, at A1 (reporting finding of survey conducted by Saul D. Feldman, sociology professor at Case Western Reserve University).

128. *Id.*

One of principal reasons for the widening gap between Cleveland and the suburbs was the onset of deindustrialization, which disproportionately affected city residents. After the 1973 Arab oil embargo, Cleveland's traditionally strong automotive and steel industries entered a serious recession. Between 1974 and 1975, the Cleveland area economy lost over 26,000 jobs in the traditionally high-paying manufacturing sector.¹²⁹ Although manufacturing employment briefly recovered before the onset of an even more severe downturn in the third quarter of 1979, the distribution of earnings among Cleveland area workers began to steadily flatten after the 1975 recession, primarily due to deterioration in the earning power of middle income workers who had formerly worked in the higher paying industrial sector.¹³⁰ Because the highest concentrations of blue-collar workers resided in Cleveland neighborhoods, the city was particularly hard hit by the restructuring of the regional economy.¹³¹

Compounding this problem was the general perception among suburbanites that downtown Cleveland was infested with thugs and criminals.¹³² Sensational news accounts often bolstered this assessment. For example, in January of 1979, the *Cleveland Press* reported on crime statisticians who were grappling with "a huge increase in brazen daylight muggings and nighttime armed robberies in the downtown area."¹³³ One police official observed, "Stick-up men are striking where the people are and where the money is—outside the hotels, the apartment houses and the convention center."¹³⁴ While some large employers were responding with investment in private security, other smaller businesses were pulling up stakes and leaving the city.¹³⁵

129. See *1 in 3 Clevelanders Jobless in 1975*, CLEV. PRESS, May 13, 1976, at A1 (attributing situation to downturns within automotive and steel-related industries); see also Edward W. Hill, *The Cleveland Economy: A Case Study of Economic Restructuring* (providing data on manufacturing and total employment in the Cleveland PMSA and observing that after 1975, wages in manufacturing stagnated for the next eight years), in CLEVELAND: A METROPOLITAN READER, *supra* note 89, at 53, 54, 71.

130. See Hill, *supra* note 129, at 71 (explaining that Gini coefficient measures the spread of earning distributions, with larger Gini scores indicating wider distributions; concluding that "[t]he result is unmistakable. Gini scores have been on an unremitting upward climb since the recovery from the 1975 recession.").

131. See *id.* at 74–76 & Map 1 (showing census tract data on proportion of workers in Cuyahoga County employed as operators, fabricators, and laborers).

132. See William F. Miller, *Imaginary Crime Hurts Downtown, New Study Finds*, PLAIN DEALER (Cleveland), Feb. 27, 1977, § 1, at 17 (discussing public perception and additional security measures taken to dispel fear).

133. Jim Marion, *Thugs and Fear Hurt Downtown; Millions Spent On Security*, CLEV. PRESS, Jan. 24, 1979, at A1 (discussing impact of recent crime wave on downtown businesses and commerce).

134. *Id.*

135. *Id.* (reporting involvement of major civic group in addressing crime problem; noting that "[s]ome smaller businesses, outraged at the risks to their stores and customers, but unable to bear the added costs of protection, are surrendering and leaving").

4. Fiscal Collapse of Cleveland, 1976–1979

By the middle to late 1970s, Cleveland frequently was cited by commentators and national expert as a prototypical example of a city on the decline.¹³⁶ Consistent with the economic and social conditions discussed in Part I.B, the city's dwindling tax base was resulting in a lower level of services, which in turn made the suburbs more appealing. Plagued by political squabbles between a city council and a young, brash mayor who had alienated the business community,¹³⁷ the city of Cleveland was falling rapidly into financial crisis.¹³⁸

In the summer of 1978, angry citizen groups successfully mobilized a recall election that Mayor Dennis Kucinich barely survived.¹³⁹ By the fall, city employees were grumbling about potential delays in issuing paychecks.¹⁴⁰ In

136. See, e.g., Thomas S. Andrzejewski, *Cleveland Is Prototype of Declining U.S. City, Used in Study*, PLAIN DEALER (Cleveland), Oct. 15, 1980, at A15 (reporting Brookings Institution study where Cleveland, according to various indices, "was one of the leading cities in the country in terms of decline"); *Cleveland Labeled a Victim*, *supra* note 59, at A18 (discussing report by Brookings Institution which placed Cleveland second to last among forty-three cities due to its disparity of education, housing, income, and employment in the city versus surrounding suburbs; reporting that healthier cities were typically in the Sun Belt); Thomas Gaumer, *Cleveland Becomes Quintessential Sick City*, PLAIN DEALER (Cleveland), Jan. 11, 1979, at A4 (observing how city exhibits all characteristics of urban decline); Tom Green, *Another Survey Puts City on Cellar*, PLAIN DEALER (Cleveland), Oct. 26, 1977, at B11 (reporting Cleveland's poor results in survey among business executives); *List of Woe; City Among 10 Worst Off, Experts Agree*, PLAIN DEALER (Cleveland), Mar. 21, 1978, at A1 (discussing several studies relevant to President Carter's initiative to help distressed cities); Joseph L. Wagner, *Cleveland Becomes Punchline at National Mayors' Conference*, PLAIN DEALER (Cleveland), June 20, 1978, at A1 (reporting on joke at mayoral convention where Cleveland is distinguished from the Titanic because "Cleveland has a better orchestra" and listing numerous problems casting Cleveland in national spotlight).

137. See, e.g., *Kucinich Depicts Business as Enemy*, CLEV. PRESS, Aug. 1, 1978, at A1 (attributing city's turmoil to tactics of business community); *New Administration Called Brash*, CLEV. PRESS, Nov. 19, 1977, at A1 (discussing confrontational style of Mayor Dennis Kucinich).

138. See Frederick E. Freeman & Joseph L. Wagner, *City in Danger of Losing its Good Credit Rating*, PLAIN DEALER (Cleveland), June 7, 1978, at A1 (discussing review of city finances by Moody's Investor Services, a municipal credit rating service; attributing possible lower credit rating to "financial problems, political turmoil and general image problems" of the city of Cleveland); Joseph L. Wagner, *Perk Ends Silence, Rips Mayor on Money Crisis*, PLAIN DEALER (Cleveland), Aug. 17, 1978, at A1 (reporting charges by former mayor Ralph Perk that the Kucinich administration had plunged the city into a financial crisis that would take years to resolve).

139. See Editorial, *Kucinich Faces Recall*, PLAIN DEALER (Cleveland), June 23, 1978, at B6 ("Mayor Kucinich will stand for recall late this summer. This drastic action, the first in Cleveland history, now seems virtually certain."); *Mayor Kucinich: Still the Winner*, PLAIN DEALER (Cleveland), Aug. 20, 1978, at A1 (reporting that after recount, mayor retained his office by 236 votes out of 120,264 cast); Joseph D. Rice & David T. Abbott, *Recall Signatures Upheld; Court Gives Mayor Stay to Tuesday on Action by Council*, PLAIN DEALER (Cleveland), June 17, 1978, at A1. Although the local pundits predicted the end of his political career, see, e.g., Joseph D. Rice, *Aides, Others See Kucinich Future Fading*, PLAIN DEALER (Cleveland), June 20, 1978, at A1, Cleveland voters elected Kucinich to the U.S. House of Representatives in 1994, a position he still holds today.

140. See *Payless Paydays, Debt Default Looms in City*, CLEV. PRESS, Nov. 2, 1978, at A1 (discussing effect of pending default on workers' morale).

December of 1978, after several unsuccessful pleas to banks to restructure its massive debt, the city of Cleveland descended into a humiliating fiscal default.¹⁴¹ Forced to make drastic layoffs even among the safety forces, the city quickly was hauled into court and threatened with a possible police strike.¹⁴²

In the fall of 1979, business and civic leaders were successful in engineering the election of Republican George Voinovich.¹⁴³ Despite the optimism generated by more capable leadership, the entire regional economy had begun a major slide into yet another recession. During the next four years, total employment shrank 30% while annualized earnings dropped by 14%, amounting to a loss of \$2.4 billion per year in 1982–1984 dollars.¹⁴⁴

5. *Financial Crisis in the Cleveland Public Schools, 1976–1979*

Drawing on the same shrinking tax base as the city of Cleveland, the Cleveland public schools were facing their own financial crisis. By the fall of 1976, just months after Judge Battisti's ruling in *Reed v. Rhodes*, news of the troubled financial state of the Cleveland schools began to appear in the headlines.¹⁴⁵ Although school officials consistently had denied the charges of intentional segregation and resisted the panoply of court-ordered remedies,¹⁴⁶ they also acknowledged that the district's fiscal problems were an entirely separate issue.¹⁴⁷ The district was cash strapped and deeply in debt.¹⁴⁸ An

141. See Frederick E. Freeman, *PD Survey Finds Talk of Gloom and Doom Here*, PLAIN DEALER (Cleveland), Jan. 15, 1979, at A10; Marcus Gleisser, *City Slides into Default as Council Blocks Mayor*, PLAIN DEALER (Cleveland), Dec. 16, 1978, at A1; Jim Marino, *Mayor Pleads to Banks Not to Let City Fail*, PLAIN DEALER (Cleveland), Dec. 12, 1978, at A1.

142. See *City Faces Court Fight on Layoffs*, CLEV. PRESS, Dec. 27, 1978, at A1 (discussing legality of laying off civil service personnel, such as police and fire, below minimum levels); *Police Threaten Strike*, CLEV. PRESS, Dec. 18, 1978, at A1 (discussing police reaction to cutbacks).

143. See Myron Magnet, *How Business Bosses Saved a Sick City in CLEVELAND: A METROPOLITAN READER*, *supra* note 89, at 155–56 (chronicling efforts of Cleveland businessmen to elect Voinovich, who had a clear plan for modernizing the city administration and revitalizing the city's economy).

144. See Hill, *supra* note 129, at 53. To be precise, Professor Hill is referring to the Cleveland PMSA, as it was defined prior to 1993; this included Cuyahoga, Geauga, Lake, and Medina counties. See *id.* at 82 n.1.

145. See, e.g., Peter Almond, *Schools Face \$7 Million Deficit*, CLEV. PRESS, Nov. 19, 1976, at A3.

146. See *Battisti Takes School Officials to Task; Final Desegregation Plan May be Near*, PLAIN DEALER (Cleveland), Jan. 15, 1978, § 1, at 20 (quoting Judge Battisti, "This court warns the defendants that its patience . . . is wearing thin Court orders will be obeyed in a timely and complete fashion or contempt proceedings will ensue."); Gaumer, *supra* note 79, at 28 (noting that "[i]t is not a secret that Briggs would also like to be the first big-city superintendent ever to win a school desegregation case . . . devoting at least half of his time to defending the school system"); *School Board to Appeal Ruling*, PLAIN DEALER (Cleveland), Sept. 1, 1976, at A1 (reporting unanimous school board decision to appeal Judge Battisti's ruling; quoting board lawyer that the court's opinion "is just not supported by the evidence").

147. See Thomas H. Gaumer, *City School Deficit is a Record \$8 Million*, PLAIN DEALER (Cleveland), Jan. 8, 1977, at A1 (quoting superintendent Paul W. Briggs, "Practically every school district in the state is in real trouble."); Craig Hitchcock, *Gallagher's Views; School Board Head*

inability to meet payroll needs led to the very real possibility that the schools would be closed in the fall of 1977.¹⁴⁹ With their paychecks in doubt, the teachers union caucused to discuss whether to continue working while the administration scrambled to secure emergency loans from the state.¹⁵⁰

Because the district had been found guilty of intentional racial discrimination in 1976, Judge Battisti now exercised supervisory authority over the district. When the district failed to secure sufficient bailout funds from the state, Battisti ordered that money set aside for the repayment of bank loans be used to pay operating expenses.¹⁵¹ Uncertainty over teacher paychecks and school closures continued during the final weeks of 1977, until the state legislature eventually passed an emergency measure allowing the district to borrow against its 1978 revenues.¹⁵²

Downgrades Briggs, Sees New Levy, CLEV. PRESS, Mar. 5, 1980, at B26 (quoting board president, "[I]t is inaccurate to infer that the financial crisis has been solely the result of the court's order to desegregate. The \$36 million deficit which confronted the schools in September of 1978 had nothing to do with desegregation."); Joseph L. Wagner, *Money, Integration Problems Separate, School Official Says*, PLAIN DEALER (Cleveland), Feb. 11, 1978, at A17 (reporting that district's treasurer stated that the "[f]inancial problems of the Cleveland schools precede and are separate from the desegregation order The legislature is pretty much aware this is something they have to do this session."); see also Editorial, *City Schools Need Levy*, PLAIN DEALER (Cleveland), Mar. 18, 1978, § 2, at 2 ("Voters should understand also that the schools' financial plight has nothing to do with the desegregation issue. The system was in trouble well before U.S. District Judge Frank J. Battisti ruled against it").

148. Thomas H. Gaumer, *School Savior: Robbing Peter to Pay Paul?*, PLAIN DEALER (Cleveland), Oct. 15, 1977, at A20 (reporting on fiscal year deficit of \$19.1 million and possibility that total debt will reach \$40 million within a year); Editorial, *City Schools in Trouble*, PLAIN DEALER (Cleveland), Aug. 26, 1977, at A18 (discussing \$20 million deficit facing Cleveland public school district and noting that "alternatives are grim: Find the money to keep going—or else shut down when its funds run out").

149. See *Financial Crisis in City Schools Looms Larger Than Integration*, PLAIN DEALER (Cleveland), Oct. 9, 1977, § 1, at 30 (noting that "[c]oncern about desegregating Cleveland schools gave way last week to concern for simply keeping them open"; reporting that state legislature failed to pass measure permitting school district to borrow against next year's revenues to meet current obligations); Thomas H. Gaumer & Robert G. McGruder, *City's Schools Broke; Closing Likely by the 17th*, PLAIN DEALER (Cleveland), Oct. 7, 1977, at A1 (reporting that "Cleveland school officials say there is only enough money to pay employees [sic] through next Friday and that was backed up by the state audit").

150. See Gaumer & McGruder, *supra* note 149, at A1 (reporting discussion by teachers' union of walkout due to uncertainty over paychecks).

151. Peter Almond & Bud Weidenthal, *Legal Moves Buying Schools Some Time*, CLEV. PRESS, Nov. 17, 1977, at A4 (reporting Battisti's ruling that schools would stay open by using funds that state law required to be set aside for payment to creditors); see also *Schools Must Make Loans or Switch Funds for Payroll*, PLAIN DEALER (Cleveland), Dec. 21, 1977, at A2 (explaining that court order averted payroll crisis; quoting school official who rebutted rumors that employees would not get last paycheck of year).

152. Dick McLaughlin, *Greater Cleveland's '77 In Review*, CLEV. PRESS, Dec. 30, 1977, at B1 (reporting that "school crisis continued into December with school closings, pupil stay-homes and absent teachers until the Legislature permitted borrowing against 1978 income").

However, when local bankers refused to loan the school system additional money, the issue of legislative approval quickly became moot.¹⁵³ It now was obvious that the district's method of deficit financing was coming to an end. The district was now forced to submit a levy initiative to the voters, which had not been done since 1970,¹⁵⁴ because of the district's longstanding reliance on extracting additional funding from the state.¹⁵⁵ Now forced to take the politically unpopular step of submitting a tax levy to voters,¹⁵⁶ most board members campaigned for its passage only grudgingly.¹⁵⁷ Despite a litany of endorsements from community groups¹⁵⁸ and repeated pleas by major newspapers,¹⁵⁹ the April 1978 levy was trounced.¹⁶⁰ Between 1978 and 1979, Cleveland residents rejected four consecutive school levy initiatives, with voter support sharply divided along racial lines.¹⁶¹

153. See *Banker Says Lenders Are Wary of Loaning to Schools*, CLEV. PRESS, Jan. 31, 1978, at C6.

154. Lou Mio, *City Schools to Ask OK of 9.9-mill Levy*, PLAIN DEALER (Cleveland), Aug. 19, 1983, at A1 (reporting that Cleveland voters last passed a school levy in 1970); *On The Brink, City Schools Borrow Time, Hoping to Borrow Funds*, PLAIN DEALER (Cleveland), Oct. 16, 1977, § 1, at 28 (noting that last levy vote was in 1970, and it passed).

155. See *Battisti Lashes Back at Critics: 'I Didn't Impoverish Schools'*, PLAIN DEALER (Cleveland), Feb. 8, 1978, at A6 (reporting Superintendent Briggs' testimony that district had moved from near the bottom in state aid to close to average, and that board preferred this strategy over levies, which could hurt their reelection chances).

156. See Robert G. McGruder, *Lenders May Turn Empty Palms to City Schools*, PLAIN DEALER (Cleveland), Jan. 31, 1978, at A4.

157. See Robert G. McGruder & Thomas H. Gaumer, *School Levy Drive Still Lacks Leader 4 Weeks from Vote*, PLAIN DEALER (Cleveland), Mar. 9, 1978, at A17 (reporting that "[p]roblems have ranged from the inability to find a campaign chairman to the difficult task of promoting the levy on the [mostly black] East Side while trying not to stir up opposition on the [mostly white] West Side" and that Board of Education admits to running a "low-key" campaign).

158. *League Wants Quality in Schools, Levy to Pay for It*, PLAIN DEALER (Cleveland), Mar. 28, 1978, at A9; *PTA Council Approves Levy by Almost 2 to 1*, PLAIN DEALER (Cleveland), Mar. 21, 1978, at A2; *Roundtable Backs School Tax Levy*, CLEV. PRESS, Mar. 25, 1978, at A5; see also *It's All Up to the Voters, City School Officials Say*, PLAIN DEALER (Cleveland), Apr. 2, 1978, § 2, at 5 (summarizing additional community endorsements).

159. See Editorial, *City Schools Need Levy*, *supra* note 147, § 2, at 2 ("There is simply no other choice if continued education for the city's 113,000 public school pupils is to be assured."); Editorial, *Don't Punish Students*, CLEV. PRESS, Mar. 29, 1978, at B4; Editorial, *Vote for School Levy*, PLAIN DEALER (Cleveland), Apr. 3, 1978, at A20; Marjorie Schuster, *City's Schools Need the Levy*, CLEV. PRESS, Apr. 5, 1978, at A7.

160. See Robert G. McGruder & Thomas H. Gaumer, *Voters Reject City School Levy; Trouble Looms Without Outside Aid*, PLAIN DEALER (Cleveland), Apr. 7, 1978, at A1 (reporting defeat by 2-1 margin).

161. See *id.* at A1 (using map to illustrate how the levy was defeated in white wards and passed in black wards); Christopher Jensen, *School Levy Finds Fewer Foes; 4 Wards Switch*, PLAIN DEALER (Cleveland), Nov. 9, 1978, at A18 (reporting third consecutive levy failure and that "[i]n all three elections, the support generally came from the East Side black wards, while the West Side white wards were against it" and using a map to depict pattern); Sue Kincaid, *City School Levies Lose Fourth Time*, CLEV. PRESS, Oct. 3, 1979, at A7 (reporting that ten predominantly black wards voted for levy by margins of up to three to one, but that all white wards voted for a defeat with some wards as high as eight to one against); Robert G. McGruder, *Loss of Support from Black Voters Added to the Crush on School Levy*, PLAIN DEALER (Cleveland), June 8, 1978, at A1 (using

Although media stories frequently have attributed voter opposition to school levies to opposition to court-ordered busing (or the possibility of it in 1978),¹⁶² a close examination of trends in other school districts makes it difficult to generalize how desegregation affected community support. During the 1970s, voters throughout the state of Ohio were rejecting levies at a much higher rate than in earlier years¹⁶³ due in part to the passage of a state income tax in 1971 that was supposed to eliminate the school financing problem once and for all.¹⁶⁴ In late 1977, the *Plain Dealer*, the Cleveland area's major daily newspaper, reported that twenty Ohio school districts needed to pass levies in order to remain open for the remainder of the school year.¹⁶⁵ In general, levies received the most opposition in districts with relatively low household incomes.¹⁶⁶

The most noteworthy example of levy failures attributable to non-desegregation factors is Parma, a blue-collar district on Cleveland's southern border with the region's second largest public school enrollment. From the early 1970s to the late 1990s, Parma and Cleveland experienced a nearly identical pattern of levy defeats¹⁶⁷ despite the fact that Parma never had a black

map to illustrate how margin of victory was smaller in black wards than during previous levy attempt and that "consistent opposition by white voters led to a better than 3-1 defeat of the 9.9 mil school levy"); see also Janet Kolodzy, *Miracle at the Polls: How City School Levy Bucked Losing Trend*, PLAIN DEALER (Cleveland), Nov. 13, 1983, at A25 (reporting how heavy black turnout and 34.3% support in white wards was sufficient to pass first levy since 1970 and using map to depict pattern).

162. Cf. Editorial, *School Busing Plan Ends After 17 Years*, PLAIN DEALER (Cleveland), Dec. 5, 1999, at G5 (noting that Cleveland voters had only passed two school levies since the desegregation decision); see also *supra* note 161.

163. See J. Stephen Hatch, *Message Is Clear on School Levies*, PLAIN DEALER (Cleveland), Nov. 4, 1976, at A28 (reporting that statewide 35% of school levies failed in 1976 and 25% in 1975); Joe McKnight, *Cause of School Levy Defeats Linked to Pioneer Days*, PLAIN DEALER (Cleveland), June 12, 1978, at A21 (reporting statewide trend of school levy failures); *School Levy in Maple Heights Is Defeated 7th Time in 8 Years*, PLAIN DEALER (Cleveland), Dec. 8, 1976, at A32 (reporting levy defeats in suburb bordering Cleveland).

164. See George E. Condon Jr., *School Clamor;irate Public Balks at Classroom Levies; State Says Education Gets All Income Tax*, PLAIN DEALER (Cleveland), Nov. 26, 1976, at A1 (reporting that "[t]hroughout the state, school boards are encountering firm voter resistance to local school tax levies"; attributing opposition to passage of state income tax in 1971); Editorial, *Ohio's School Cash Mess*, PLAIN DEALER (Cleveland), Jan. 6, 1978, at A14 (reporting that despite 1971 income tax, "Ohio schools are again in desperate financial straits. The casualty rate for proposed property tax levies for schools remains high and shows no signs of abatement.").

165. *Last-ditch; 20 Ohio School Districts Need Levies Passed to Remain Open*, PLAIN DEALER (Cleveland), Nov. 6, 1977, § 1, at 25 (reporting that "[n]ever before have so many school districts in the state faced such economic hardship, state education officials say," and that 58,000 pupils were out of class in districts where funds were exhausted, and 82,000 would be out if all the levies on the November ballot failed).

166. *Family Income Reflects the Ability to Pass Levies*, PLAIN DEALER (Cleveland), Dec. 3, 1978, § 7, at 7 (reporting findings of Citizens' Council for Ohio Schools that districts with lower family incomes had less success passing school levies); *Lower-Income Voters Veto More School Levies*, PLAIN DEALER (Cleveland), Dec. 10, 1978, § 6, at 11 (reporting results of same study).

167. Compare Tom Breckenridge, *Looking for Cash to Carry On; Parma Schools Try Another Levy*, PLAIN DEALER (Cleveland), July 31, 1994, at B7 (reporting four consecutive levy failures and hope for success during next election), and Editorial, *The Suburban Elections*, CLEV.

enrollment exceeding 2%¹⁶⁸ and never was involved in court-ordered school desegregation. Ironically, in 1999, while the Cleveland public schools were in the process of dismantling their desegregation program,¹⁶⁹ the Parma schools teetered on the brink of state takeover due to lack of voter support for state levies.¹⁷⁰

In reality, the Cleveland voter rebellion that began in April 1978 could be attributed to many sources. For example, in late 1977, test scores were released showing that Cleveland students were performing significantly below the national average.¹⁷¹ An editorial in the Cleveland *Plain Dealer* lamented, “Reading achievement scores for high schoolers in the Cleveland school system are deplorable, shocking, and totally unacceptable Somewhere, somehow, something has gone wrong Surely, these latest test scores should serve dramatic notice on Cleveland’s teachers, administrators and school board members that major changes are in order.”¹⁷² To compound matters, news stories began to report that the school system was plagued by mismanagement and inept business practices.¹⁷³

After the failure of another school levy in June of 1978,¹⁷⁴ the Ohio legislature approved enough additional funding for the Cleveland public schools

PRESS, June 8, 1977, at B2 (reporting that in Parma, “where residents have not passed a school levy since 1969, a proposed \$3.4-million levy was defeated for the second time this year”), and Thomas J. Quinn, *School Levies Rejected in Parma, 9 Other Districts*, PLAIN DEALER (Cleveland), June 7, 1978, at A1, with *supra* notes 160–61 (documenting levy failures in Cleveland).

168. The homogenous character of Parma is a longstanding fact and a source of controversy in the fair housing context. Geraldine M. Strezier, *Battisti Finds Parma Guilty of Housing Bias*, PLAIN DEALER (Cleveland), June 6, 1980, at A1 (reporting outcome of 1973 case brought by Department of Justice; noting that Parma was 99% white according to 1970 census data). According to the Ohio Department of Education, 1998 black enrollment in Parma public schools was 1.76%. See Ohio Department of Education, Interactive Web Center Pupil Profile, at http://ode000.ode.state.oh.us/www/ims/vitals/fall_ethnic_enroll.txt (last visited Jan. 14, 2002) [hereinafter ODE Pupil Profile].

169. The Cleveland desegregation program officially ended July 1, 2000. Tebben & Stephens, *supra* note 12, at B1 (reporting district court findings of unitary status in 1998 and setting date for conclusion of the case).

170. See Janet Tebben, *School Districts Struggle to Gain Votes for Levies*, PLAIN DEALER (Cleveland), Oct. 25, 1999, at B1 (reporting mounting deficit in Parma district and that failure of levy may result in state takeover).

171. See Thomas H. Gaumer, *6.2% of 11th Graders Here Read Above U.S. Average*, PLAIN DEALER (Cleveland), Dec. 9, 1977, at A1 (reporting that nationally, 23% of students were above average, 54% were average, and 23% were below average; the same numbers for Cleveland were 6.2, 44.9, and 48.9, respectively).

172. Editorial, *Test Results a Scandal*, PLAIN DEALER (Cleveland), Dec. 11, 1978, § 2, at 6.

173. See, e.g., *City School Food Services Accused of Bid Favoritism*, PLAIN DEALER (Cleveland), June 17, 1977, at A12 (reporting on accusations that food contracts were being awarded on a patronage basis); Stephen P. Adams, *Schools’ Deficit Laid to One-Bid Contracts for Food*, PLAIN DEALER (Cleveland), Dec. 1, 1979, at C1 (quoting a Brookings Institution report which found that “a large number of one-bid contracts [were awarded] to four companies all controlled by the same individuals,” and concluding that this practice was a major contributor to the school system’s “chronic financial problems”).

174. Robert G. McGruder & Christopher Jensen, *City School Levy Soundly Defeated*, PLAIN

to open in the fall.¹⁷⁵ Although desegregation tentatively was scheduled to begin at the same time, continuing financial and logistical problems caused Judge Battisti to delay its implementation until the following year.¹⁷⁶ However, this hardly would have been a reprieve, as the district was immediately confronted with serious labor problems.

Unions representing Cleveland teachers and other employees had banded together and announced that they would not work another year without a pay raise.¹⁷⁷ When a state court judge refused to enjoin a strike,¹⁷⁸ a work stoppage by virtually all school employees kept the schools closed for the first month of the school year. After the school board drafted a new budget that included dramatic cuts in personnel and educational programs,¹⁷⁹ remaining workers were offered a substantial pay increase¹⁸⁰ and the judge who initially denied the injunction now ordered everyone back to work.¹⁸¹ Remarkably, the unions refused to obey the court order.¹⁸² After the head of the teachers' union was convicted of contempt,¹⁸³ the school year officially commenced the following day, with enrollment levels initially flagging.¹⁸⁴ One month later, Cleveland voters defeated yet another school levy.¹⁸⁵

DEALER (Cleveland), June 7, 1978, at A1 (reporting that margin of defeat appeared to widen over April vote).

175. *Cleveland Schools Stay Broke Despite State's Added Millions*, PLAIN DEALER (Cleveland), June 30, 1978, at A21 (reporting that despite funding approved by the legislature, school officials could not say whether schools nonetheless would close later that year).

176. Christopher Jensen, *Busing Postponed Again, Angry Battisti OKs February Start*, PLAIN DEALER (Cleveland), Aug. 26, 1978, at A1 (reporting rejection of partial desegregation plans because of incomplete preparation; noting suggestion of escrow account to ease fears of bus companies regarding the district's ability to pay).

177. Christopher Jensen, *School Strike '99%' Sure, Teachers' Chief Says Board's Only Response Is 'No Money'*, PLAIN DEALER (Cleveland), Sept. 6, 1978, at A1 (reporting that starting salary was thirty-fourth out of thirty-six school systems in Greater Cleveland, and that teachers had not received a raise during previous school year).

178. Christopher Jensen, *Judge Lets Strike Go On; Schools, Unions Told to Persuade State to Allow Pay Raises*, PLAIN DEALER (Cleveland), Sept. 14, 1978, at A1 (reporting decision of Judge Harry A. Hanna).

179. See Christopher Jensen, *Cleveland School Board Budgeters Biting the Bullet*, PLAIN DEALER (Cleveland), Sept. 30, 1978, at A1 (reporting 637 layoffs, 180 demotions or transfers, and a myriad of educational cutbacks).

180. See *Schools' View of Strike*, PLAIN DEALER (Cleveland), Oct. 6, 1978, at A8 (summarizing school board's offer, including 8% pay increase, a 6% increase upon passage of an upcoming levy, and the addition of a prescription drug plan).

181. Christopher Jensen, *School, Unions Defy Court's Order to Return to Work*, PLAIN DEALER (Cleveland), Oct. 6, 1978, at A8 (reporting on Judge Hanna's order and the refusal of workers to return to work).

182. *Id.* (reporting unions' viewpoint that, notwithstanding the court order, school board's offer had "too many ifs"; workers were instructed to continue the strike).

183. Jacqueline V. Jones, *O'Meara Is Convicted, Faces Jail*, PLAIN DEALER (Cleveland), Oct. 8, 1978, at A1 (reporting O'Meara's ten-day jail sentence and quoting Judge Hanna, "The strike is over. It is past. This is no longer an expression of dissatisfaction with an employer, but a repudiation of the law.").

184. *Pupil Total Climbs to 90,000 on 2d Day of Cleveland Classes*, PLAIN DEALER

In January of 1979, the Sixth Circuit stayed the implementation of the Cleveland desegregation plan until after the Supreme Court had decided two appeals involving desegregation orders in two other Ohio school districts.¹⁸⁶ Regardless of desegregation, however, the wheels appeared to be coming off the Cleveland public schools. School employees once again faced the prospect of not receiving a paycheck.¹⁸⁷ Teacher absenteeism was high in many schools, with many teachers looking for work in suburban systems that offered higher pay and adequate supplies.¹⁸⁸ Several teachers also complained about abusive language from students and fear of physical attacks.¹⁸⁹ One news story quoted a teacher, “In 18 years I’ve never seen the state of demoralization I see now I’ve never seen so many teachers talking about getting out of the profession and leaving Cleveland.”¹⁹⁰ Another teacher commented, “We can’t even have paper [for classroom work] We’ve lost the whole idea of benefiting the child.”¹⁹¹

During this same period, several news stories reported that the district’s physical infrastructure literally was falling apart. Cutbacks during the previous three years had resulted in leaking roofs, erratic heating systems, peeling paint, missing floor tiles, damaged light fixtures, crumbling steps, and approximately 11,000 panes of broken glass; school administrators acknowledged almost daily complaints from parents about unsafe and unsanitary conditions.¹⁹² Cleveland high school students complained that the cafeteria was a “pigpen” and the parking lot was full of glass.¹⁹³ Toward the end of the 1978–79 school year,

(Cleveland), Oct. 12, 1978, at A15 (reporting that officials anticipated about 100,000 students to enroll for fall).

185. Christopher Jensen, *Cleveland Voters Say No Again to Schools*, PLAIN DEALER (Cleveland), Nov. 8, 1978, at A1 (noting that “levy’s failure was blamed by board members on an anti-busing sentiment, an anti-tax sentiment and a general discontent with the schools”).

186. Stephen Adams et al., *Appellate Court Delays Start of Cleveland’s Desegregation*, PLAIN DEALER (Cleveland), Jan. 9, 1979, at A1; see also Richard G. Zimmerman, *2 Ohio Cases Vital in Desegregation Flight*, PLAIN DEALER (Cleveland), Jan. 9, 1979, at A14 (discussing possible impact of Dayton and Columbus desegregation cases).

187. Sue Kincaid, *Schools Payday*, CLEV. PRESS, Mar. 9, 1979, at A4 (discussing financial maneuvering necessary to ensure paychecks and how one factor triggering strike was that employees had gotten late paychecks several times in 1977 and early 1978).

188. Sue Kincaid, *Schools: Money, Desegregation and Morale to Continue Plaguing the System*, CLEV. PRESS, Feb. 1, 1979, at B9 (reporting that busing is unlikely to commence until the following year, but that district is plagued by low morale and lack of money to buy rudimentary supplies).

189. *City’s Education Misses the Grade*, PLAIN DEALER (Cleveland), May 13, 1979, § 1, at 1 (discussing broad range of problems in Cleveland schools and general refusal of school officials and board members to take responsibility for the failure); see also Christopher Jensen, *Need for Special School for Unruly Pupils Debated*, PLAIN DEALER (Cleveland), July 28, 1979, at A10 (quoting teachers union official, “Nobody seems to be worried about the rights of the teacher There is no discipline . . . everybody is out to protect the poor child.”).

190. *City’s Education Misses the Grade*, *supra* note 189, § 1, at 4.

191. *Id.*

192. Sue Kincaid, *Schools Are Crumbling*, CLEV. PRESS, Mar. 14, 1979, at B1 (discussing findings of inspection tour of schools).

193. Sue Kincaid, *School Budget; Which Comes First—Improvement or Levy?*, CLEV. PRESS,

news also broke that Cleveland students once again had performed poorly on national achievement tests.¹⁹⁴ After conducting a series of investigative reports to examine the district's numerous problems, the editorial staff of the *Plain Dealer* concluded, "the Cleveland school system is an unmitigated mess."¹⁹⁵

In July 1979, the Supreme Court affirmed desegregation decisions in two other Ohio cities,¹⁹⁶ and it became apparent that court-ordered busing would definitely be phased in at the high school level during the 1979-80 school year.¹⁹⁷ The specter of busing initially had raised concerns about flight from the district, but it now was obvious that even parents willing to try desegregation had many additional reasons to exit. The busing program began peacefully in early September of 1979,¹⁹⁸ with erratic attendance that eventually began to recover.¹⁹⁹

Mar. 22, 1979, at B16 (discussing complaints voiced by angry parents and students at school budget meeting).

194. See Christopher P. Jensen, *50% of Pupils Are Substandard Readers*, PLAIN DEALER (Cleveland), May 11, 1979, at A1 (reporting that "half of Cleveland's 9th and 11th graders taking standardized reading tests this school year scored in the below-average range" and that nationwide 23% of readers are typically in this range); see also *Academic Standards Under Fire*, PLAIN DEALER (Cleveland), May 13, 1979, § 6, at 1 (observing that both parents and teachers believe that academic standards within the Cleveland schools have declined in recent years). But see Christopher Jensen & Stephen P. Adams, *City Pupils Score Well in Reading*, PLAIN DEALER (Cleveland), June 29, 1979, at A24 (reporting that "Cleveland's third, fourth, fifth and sixth graders are close to the national average in reading" and that scores were a slight improvement over the previous year).

195. Editorial, *The Battered Schools*, PLAIN DEALER (Cleveland), May 20, 1979, § 2, at 2 (discussing findings of eight-part *Plain Dealer* series on Cleveland's education crisis and offering solutions).

196. See *Columbus Bd. of Educ. v. Penick*, 443 U.S. 449 (1979) (affirming lower court's order that Columbus city schools undergo systemwide desegregation); *Dayton Bd. of Educ. v. Brinkman*, 443 U.S. 526 (1979) (affirming finding of intentional segregation and upholding systemwide desegregation remedy).

197. Christopher Jensen & Stephen P. Adams, *Battisti Gives Schools Pick of 3 Plans to Desegregate, Tells Them to Choose 1*, PLAIN DEALER (Cleveland), July 14, 1979, at A1 (summarizing three possible plans, all of them commencing desegregation of high schools in fall 1979); Christopher Jensen, *Fall Assignments 90% Complete*, PLAIN DEALER (Cleveland), Aug. 14, 1979, at A6 (using maps to depict clustering/pairing for high school desegregation in the fall); Christopher Jensen & Stephen P. Adams, *Supreme Court Backs Busing; All-Out Efforts for Desegregation Seen Here by 1980*, PLAIN DEALER (Cleveland), July 3, 1979, at A1 ("After almost three years of false starts, significant busing in the Cleveland schools seems inevitable this fall, with systemwide desegregation in early 1980, school officials predicted yesterday.").

198. Adams & Jensen, *supra* note 85, at A1 (reporting that after the first day of busing "[n]o incidents were reported anywhere, despite the scrutiny of reporters, observers from the U.S. Department of Justice . . . and monitors from [the OSMCR]"); *Buses Roll Peacefully*, *supra* note 85, at A1 (reporting that there were "no demonstrations or organized protests at the schools or along the bus routes").

199. See Christopher Jensen & Stephen P. Adams, *Many Whites Absent on 2d Day of Busing*, PLAIN DEALER (Cleveland), Sept. 12, 1979, at A1 (reporting that about 13,000 of 17,286 affected students attended second day of class); Christopher Jensen & Stephen P. Adams, *White Attendance Climbs, But Is Still Less Than 85 Percent*, PLAIN DEALER (Cleveland), Sept. 18, 1979, at A5 (reporting 82% attendance at desegregated schools instead of the normal 85% attendance rate); *2,500 Pupils Leave City Schools*, PLAIN DEALER (Cleveland), Sept. 20, 1979, at A18 (reporting that

In early October, Cleveland voters defeated yet another round of school levies, placing the district in a precarious situation with six unions that had been working without a contract.²⁰⁰ Two weeks later, the Cleveland teachers' union rejected the district's pay increase and again went on strike.²⁰¹ For approximately three weeks, the district technically remained in session, though only a few hundred of the 92,000 students enrolled were attending on a daily basis.²⁰² Because of the financial crunch, administrators wanted to keep the doors open in order to toll the state's 180 day minimum instruction requirement and thus save the district money on teachers' salaries.²⁰³ Nevertheless, as negotiations deteriorated, the schools were shut down for the duration of the strike.²⁰⁴ A short time later, the State Board of Education considered a proposal to revoke the charter of the Cleveland schools and dissolve the district due to its chronic inability to meet minimum state standards.²⁰⁵

Finally, in January of 1980, the teachers returned to work.²⁰⁶ Although the district lost an additional 4000 students during the eleven-week strike, the busing program quickly resumed²⁰⁷ and the system gradually achieved full deseg-

"[a]bout 2,500 children have withdrawn from the Cleveland schools so far this year, but that loss has been offset by 3,000 pupils entering the system").

200. Kincaid, *supra* note 161, at A7 (reporting failure of \$1.5 million building improvement levy and a \$5.75 million general operating levy).

201. Stephen P. Adams et al., *City's School Teachers out on Strike*, PLAIN DEALER (Cleveland), Oct. 18, 1979, at A1 (reporting rejection of eleventh hour offer of 6% pay increase and that Cleveland teachers are "among the lowest paid in Greater Cleveland"; quoting union official, "[6% pay increase] is just not enough").

202. *City Teachers Continue Strike into Third Week*, PLAIN DEALER (Cleveland), Nov. 5, 1979, at A16 ("Schools are officially open, although fewer than 150 of the system's 92,000 pupils reported for classes Friday."); *City Teacher Asks Court to Order Schools Closed*, PLAIN DEALER (Cleveland), Nov. 1, 1979, at A7 ("Almost all the system's 4,000 teachers have been on strike since Oct. 18. School officials contend the system is open because, as required by state law, there are teachers and pupils in attendance. But, only a few hundred children try to go to school daily.").

203. *See City Teacher Asks Court*, *supra* note 202, at A16 (noting that "[a]s long as the system is technically open, teachers are not paid and the days do not have to be made up at the end of the year to meet the state minimum of 180 days of teaching").

204. The district was not required to pay the striking teachers because they were not teaching while school was in session. However, with the schools closed, the teachers no longer *lost* pay, but could make up their pay by teaching the makeup classes when the schools reopened. *See City Schools Closed for Duration of Strike*, PLAIN DEALER (Cleveland), Nov. 7, 1979, at A2 (reporting that closure "is a victory for the 4,000 striking teachers").

205. Stephen P. Adams & Leslie Kay, *State Urged to Dissolve City Schools*, PLAIN DEALER (Cleveland), Dec. 8, 1979, at A1 (reporting that "[l]ast year, not one of the 146 schools in the [Cleveland] system was found completely in compliance with state standards"; discussing involvement of former school board president Arnold Pinkney in drafting initiative).

206. *See* Leslie Kay, *Judge Orders Teachers to Work*, PLAIN DEALER (Cleveland), Jan. 1, 1980, at A1 (reporting on court order requiring teachers to return to work and union and school officials to resume negotiations); *School Accord Is Reached, Classes Could Start Monday*, CLEV. PRESS, Jan. 2, 1980, at A1 (reporting proposed contract settlement).

207. *See* Craig Hitchcock, *80,000 in Class, Busing Proceeds*, CLEV. PRESS, Jan. 9, 1980, at B16 (reporting climbing attendance and relatively smooth resumption of busing, and estimating that approximately 4000 students left district during strike).

regation in the fall of 1980.²⁰⁸ By this time, however, the exodus from the Cleveland schools was virtually complete. Total student enrollment for the 1980–81 school year was 80,767; two decades later, the figure remains roughly the same, with 78,180 total students enrolled in the 1999–2000 school year.²⁰⁹ Although the specter of court-ordered busing could have been a major reason for the defeat of the Cleveland school levies, it was by no means the only explanation for voter opposition. Consistent with economic and social conditions model set forth in Part I.B, Cleveland residents were being asked to pay higher taxes for an educational benefit that was, by all accounts, severely declining in quality.

6. *Summary of Economic and Social Conditions Model, 1920–1979*

In many important respects, the economic and social condition model provides a cogent explanation for the downward spiral of Cleveland and its public schools. From the early 1900s to the 1960s, Cleveland families were increasingly “pulled” to outlying communities by the appeal of a suburban lifestyle and new, relatively affordable housing. This interpretation is supported by the trend, beginning in the mid-1960s, of middle-class black families following their white counterparts into the suburbs.²¹⁰

By 1970, however, two of the three distress indices under the economic and social conditions model already had been surpassed. Per capita income in the city of Cleveland had declined to 68.7% of the same figure for the suburbs (dropping below 70%), and the percentage of minority residents had risen to 38.3% (surpassing 30%).²¹¹ Although the model’s remaining indicator, population loss (greater than 20%), stood at -17.9% in 1970 before dropping to -37.3% during the next decade, Part II.A provided substantial evidence that the outmigration from both the city and the entire region had hit full stride prior to 1976.²¹² It is therefore reasonable to assume that the city of Cleveland had passed the point of no return²¹³ several years before Judge Battisti’s decision in August of 1976.

208. See *Busing Plan for Phase 2*, PLAIN DEALER (Cleveland), Feb. 25, 1980, at A14 (using maps and charts to depict second phase of desegregation involving junior high schools); *Full Desegregation of Schools Will Be Finished Thursday*, *supra* note 87, at A1 (reporting start of Phase 3 of desegregation plan, which includes elementary schools); Christopher Jensen & Stephen P. Adams, *Schools Desegregate Smoothly*, PLAIN DEALER (Cleveland), Mar. 20, 1980, at A1 (discussing transportation problems but few incidences of resistance); Weidenthal, *supra* note 87, at A6 (reporting that first full week of complete desegregation went smoothly).

209. ODE Pupil Profile, *supra* note 168.

210. See *supra* Part II.A.2.

211. See *supra* Table 1.

212. See *supra* Part II.A.3, Table 1, and Chart 1; see also *Effectiveness of Mandatory Busing in Cleveland*, *supra* note 9, at 19 (quoting Congressional subcommittee testimony of housing analyst Thomas Bier, “[I]n the 1970’s, the city’s population fell by 24 percent And most of that lost I think—I am sure—occurred before 1977. But busing made it worse.”).

213. See *supra* notes 60–61 and accompanying text.

The fiscal crises that gripped both the city of Cleveland and its public schools are arguably the late stages—or “push” phase—of the economic and social conditions model. With economic restructuring, increasing rates of poverty and crime, declining city services, and pressure to increase taxes, middle-class Clevelanders had every reason to exit the city limits during the middle to late 1970s. Although the desegregation/white flight model discussed in Part II.B suggests that the specter of court-ordered busing may have modestly accelerated these underlying trends, the economic and social conditions model by itself provides a remarkably comprehensive explanation of Cleveland’s decline.

B. The Desegregation Order and Its Implementation, 1976–1980

Part II.A identified several economic, social, and demographic patterns that were reshaping the Cleveland metropolitan area, yet occurred so gradually that their full significance is not readily apparent. In contrast, the desegregation of the Cleveland public schools was consistently one of the region’s most prominent news stories during the 1970s and early 1980s. At the end of the millennium, the Cleveland *Plain Dealer* declared the desegregation case the city’s eighth most significant event of the century, observing, “It is impossible to quarrel with the ruling by the late U.S. District Judge Frank Battisti that Cleveland’s school system intentionally practiced segregation. But the busing remedy that hung over the city for 20 years devastated its population base.”²¹⁴

This section argues that the continuous headlines surrounding the desegregation controversy had the cumulative effect of exaggerating its importance as a factor leading to the downward decline of Cleveland and its public schools. By the time the busing program was fully implemented in 1980, the middle-class exodus out of Cleveland was largely complete. Despite continued suburbanization, the city’s share of total public school enrollment in Cuyahoga County dropped only 2% during the next eighteen years.²¹⁵

The cornerstone of this discussion is data collected by the Office on School Monitoring and Community Relations (OSMCR), which had been created as part of the desegregation order. Sensitive to accusations that the controversy over busing had caused massive outmigration of students, the OSMCR commissioned a study in the early 1980s to calculate “how much desegregation-related ‘white flight’ took place in Cleveland, and how much of the still continuing enrollment decline is likely the result of other causes.”²¹⁶ Conducted by Professor Everett

214. Larkin, *supra* note 4.

215. In 1979–80, Cleveland enrollment was 92,558 while the county total was 231,559 (39.97%). In 1997–98, the same figures were 76,500 and 202,793 (37.72%). ODE Pupil Profile, *supra* note 168.

216. Prefatory memo from Leonard B. Stevens, Director, OSCMR, to Judge Frank Battisti, *in* EVERETT CATALDO, ENROLLMENT DECLINE AND SCHOOL DESEGREGATION IN CLEVELAND: AN ANALYSIS OF TRENDS AND CAUSES i (1982) [hereinafter OSMCR report].

Cataldo, a political scientist from Cleveland State University who had published extensively in the desegregation area,²¹⁷ this report is a remarkably deep resource for contemporaneous data on the Cleveland public schools, including enrollment trends in the city and the suburbs, transfers out of Cleveland by race and destination, and a comparison of birthrates to subsequent first grade enrollments.

Part II.B first will introduce briefly the major figures in the desegregation litigation. It then will examine the data, methodology, and conclusions of the OSMCR report. Ultimately, Part II.B will agree with the findings of the OSMCR report that desegregation had a measurable but not profound impact on enrollment in the Cleveland public schools, especially during the period of 1978 to 1980,²¹⁸ and that some of this loss reasonably can be attributed to the financial and political turmoil that was engulfing the city during the same period. Finally, Part II.B considers the argument that Cleveland may have been a victim of "anticipatory" white flight that largely predated the implementation of busing.

1. *The Historical Context*

Filed in late December of 1973, the Cleveland desegregation case was a public drama that was played out in the headlines of the local newspapers over the course of several years. From the beginning, the cast of characters proved to be especially colorful. For example, Judge Frank Battisti was a Harvard-educated lawyer who had grown up in a blue-collar family in Youngstown, Ohio, a nearby steel town that was heavily Democratic.²¹⁹ When President Kennedy appointed him in 1961, Frank Battisti was the youngest judge ever to serve on the federal judiciary.²²⁰ By the late 1960s, he had risen to Chief Judge

217. See, e.g., EVERETT F. CATALDO ET AL., *SCHOOL DESEGREGATION POLICY: COMPLIANCE, AVOIDANCE AND THE METROPOLITAN REMEDY* (1978); Everett F. Cataldo et al., *Desegregation and White Flight*, 13 *INTEGRATED EDUC.* 3 (1975); Everett F. Cataldo et al., *Metropolitan School Desegregation: Practical Remedy or Impractical Ideal?*, 422 *ANNALS AM. ACAD. POL. & SOC. SCI.* 97 (1975); Michael Giles et al., *Desegregation and Private Schools*, 6 *SOC. POL'Y* 45 (1976); Michael Giles et al., *The Impact of Busing on White Flight*, 55 *SOC. SCI. Q.* 493 (1974); Michael Giles et al., *White Flight and Percent Black: The Tipping Point Reexamined*, 56 *SOC. SCI. Q.* 85 (1975).

218. The OSMCR report concludes that an enrollment drop of approximately 4834 students (white, black, and other minority) could be attributed to the desegregation order, but that even these figures were likely to be high due to assumptions in the analysis that conceded all abnormal enrollment drops to desegregation. OSMCR report, *supra* note 216, at 25, 26. Although this article will not endorse the specific estimates of enrollment decline set forth by the OSMCR report—in fact, it will use OSMCR data to suggest that the actual figure may have been slightly higher—the range of disagreement is actually quite small.

219. Amos A. Kermisch, *Battisti: He Holds a Key to the Future: From Steel Mills to Judge via Infantry and GI Bill*, *PLAIN DEALER* (Cleveland), Jan. 25, 1976, § 1, at 33 (summarizing Battisti's background and reputation among lawyers).

220. *Battisti: They Praised Him, They Damned Him*, *PLAIN DEALER* (Cleveland), Sept 1, 1976, at A11 (summarizing Battisti's background and his handling of the Cleveland case).

of the Northern District of Ohio.²²¹ Known for his willingness to preside over controversial cases,²²² Judge Battisti eventually agreed to hear the Cleveland desegregation case after several of his colleagues turned it down.²²³ One month before rendering his verdict in *Reed v. Rhodes*, Judge Battisti was named the nation's most outstanding trial judge by a national association of trial lawyers.²²⁴ Two years later, signatures were being gathered throughout northeast Ohio calling for his impeachment.²²⁵ Judge Battisti continued to preside over the desegregation case until his sudden death in 1994, when he was eulogized as a martyr for black school children struggling to get a quality education.²²⁶

The chief counsel for the plaintiffs was Nathaniel Jones, a prominent black lawyer who formerly served in Cleveland as an Assistant U.S. Attorney before joining the legal staff of the NAACP.²²⁷ Jones claimed that Cleveland was one of the most segregated school systems in the country, and that earlier optimism stemming from the election of Carl Stokes as the first black mayor of Cleveland had resulted in city officials pursuing a strategy of negotiation with school officials that ultimately failed.²²⁸ Ironically, Jones had grown up in the same neighborhood and attended the same high school social club as school board president Arnold Pinkney, who was also black and adamantly opposed to the desegregation lawsuit.²²⁹ During the 1950s, Jones had studied under Judge Battisti at Youngstown College Law School and the two became friends.²³⁰ When accusations began to circulate that Judge Battisti should have recused himself from the case, Jones lashed out at one of the daily newspapers and accused the editorial board of conspiring with school officials to influence the

221. *Id.*

222. *Id.* (citing Battisti's adjudication of prior cases involving racial segregation in public housing and attempts to build public housing in Cleveland suburbs).

223. See Kermisch, *supra* note 219, § 1, at 37 (reporting that Chief Justice Battisti had offered Cleveland case to all of his colleagues, but they all declined).

224. *Battisti To Get Award as Top U.S. Trial Judge*, PLAIN DEALER (Cleveland), July 25, 1976, § 1, at 33 (reporting Association of Trial Lawyers of America's selection of Judge Battisti to receive the annual award).

225. *85,000 Sign Petitions for Battisti's Impeachment*, PLAIN DEALER (Cleveland), Aug. 30, 1978, at A2.

226. See, e.g., Mark Rollenhagen et al., "He Had the Nerve to Stand Up for Black Children," PLAIN DEALER (Cleveland), Oct. 20, 1994, at A1 (quoting former school board member Stanley Tolliver on Battisti's willingness to accept an unpopular position in school desegregation case); Harry Stainer, *Battisti Given Final Farewell: Friends Call Him Martyr For Kids*, PLAIN DEALER (Cleveland), Oct. 23, 1994, at B1 (quoting eulogy of friend Rev. Thomas Acker; also quoting Sixth Circuit Judge Nathaniel Jones, who stated that Battisti "struck down Ohio's version of apartheid").

227. See *Jones: Spearheaded NAACP's National Attack*, PLAIN DEALER (Cleveland), Sept. 1, 1976, at A11 (summarizing Jones' background and his involvement in the Cleveland case).

228. Thomas H. Gaumer, *NAACP General Counsel Nathaniel Jones*, PLAIN DEALER SUN. MAG. (Cleveland), Feb 1, 1976, at 22, 23 (question and answer session with Jones on Cleveland desegregation case).

229. See Kermisch, *supra* note 219, at 37.

230. *Id.* at 33.

outcome of the trial.²³¹ Before the first buses began to roll in 1979, Jones was appointed by President Carter to the U.S. Court of Appeals for the Sixth Circuit.

From the outset of litigation, school board superintendent Paul Briggs denied the charges of racial discrimination and made it clear that he wanted to be the first big-city administrator to win a school desegregation case.²³² Briggs had been hired in 1964, shortly after a series of civil rights demonstrations accused the school board of implementing a policy of racial containment by building new schools only in all-white or all-black sections of the city.²³³ These protests ultimately culminated in the death of Ralph Klunder, a white minister who, during an act of civil disobedience and protest, was accidentally run over by a bulldozer that was preparing a construction site for yet another segregated school.²³⁴ Nevertheless, under Briggs' watch, the district built forty more schools at a cost of \$220 million.²³⁵ The NAACP later would charge that the locations of these schools had been chosen intentionally to maintain racial segregation,²³⁶ and the district court agreed.²³⁷ Two years later, Judge Battisti would strip Briggs and the school board of their authority, having grown impatient with a pattern of endless delay and inaction.²³⁸ Within days, Briggs submitted his resignation.²³⁹ After several years of uncritical support from the

231. Editorial, *NAACP Charges in Error*, PLAIN DEALER (Cleveland), Feb. 24, 1976, at A14. The article that Jones found most objectionable was Kermisch, *supra* note 219.

232. Gaumer, *supra* note 79, at 28.

233. Thomas H. Gaumer, *A Century of Struggle: School Bias Complaints Date Back to 1871 Here*, PLAIN DEALER (Cleveland), Sept. 1, 1976, at A14 (describing civil rights demonstrations in early 1960s and subsequent hiring of Briggs). The NAACP unsuccessfully challenged the school district's construction of new schools in predominantly black neighborhoods, arguing that it violated equal protection and would result in resegregation. See *Craggett v. Board of Educ.*, 234 F. Supp. 381 (N.D. Ohio 1964).

234. Paul Shepard, *A Martyr Remembered: 30 Years Ago, Rights Activist Bruce Klunder Died Beneath a Bulldozer Here*, PLAIN DEALER (Cleveland), Apr. 7, 1994, at A1 (discussing Klunder's death and Briggs' subsequent hiring).

235. *Id.* at A16.

236. *Briggs: His Policies of 12 Years Were the Target*, PLAIN DEALER (Cleveland), Sept. 1, 1976, at A10.

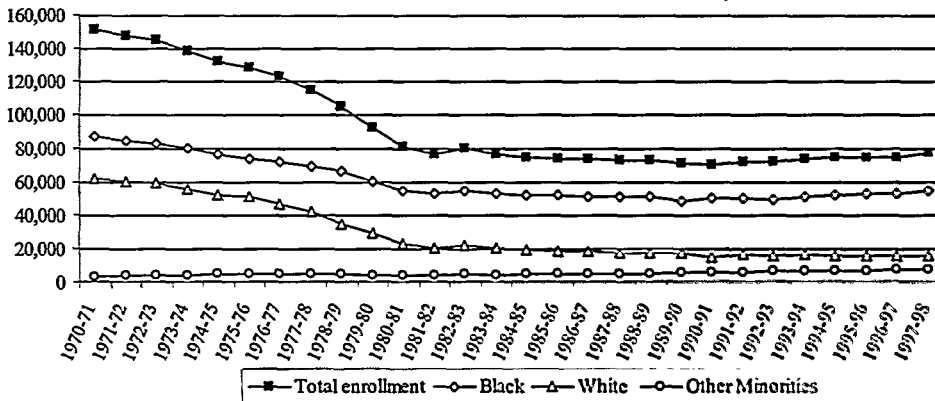
237. *Reed v. Rhodes*, 422 F. Supp. at 724-25 (discussing construction of new schools in one area and how the "result of this school construction was plainly containment of blacks in an overwhelmingly black school"); see also Richard M. Peery, *Schools Built to Hold Blacks, Judge Finds*, PLAIN DEALER (Cleveland), Sept. 1, 1976, at A13 (discussing court opinion where Judge Battisti set forth numerous examples of school construction meant to contain burgeoning black population).

238. Editorial, *Battisti Seizes Control*, PLAIN DEALER (Cleveland), Apr. 23, 1978, § 7, at 2 (arguing that in seizing control of the school system Battisti "emasculated the elected board of education and its superintendent, Dr. Paul W. Briggs"); Robert G. McGruder & Thomas H. Gaumer, *Board Appeals; Slow to Obey Orders, Judge Says*, PLAIN DEALER (Cleveland), Apr. 28, 1978, at A1 (quoting Battisti memo that "court 'has previously found that its orders with respect to desegregation planning were not being obeyed or understood by local defendants'"); Robert G. McGruder & Thomas H. Gaumer, *School Board Loses Clout: Battisti Orders Leftwich Command of Many Key Departments in System*, PLAIN DEALER (Cleveland), Apr. 22, 1978, at A1 (describing assignment of several key departments to desegregation coordinator).

239. Thomas H. Gaumer & Robert G. McGruder, *Paul Briggs Resigns*, PLAIN DEALER

local media,²⁴⁰ Briggs' tenure was eventually reassessed as little more than a public relations campaign that concealed the district's most serious problems.²⁴¹

Chart 3: Enrollment Trends in Cleveland Public Schools, 1970-1998



Sources: Ohio Dept of Educ.; Everett Cataldo, *Enrollment Decline and School Desegregation in Cleveland* (1982)

2. Declining Birthrates

Even before Judge Battisti issued his ruling in late August of 1976, the Cleveland media began to report declining enrollment figures and speculate on possible links to the desegregation case.²⁴² During the trial, newspaper reports were making comparisons between Cleveland and other major cities that had implemented court-ordered busing, often discussing the issue of white flight.²⁴³

(Cleveland), Apr. 28, 1978, at A1.

240. See, e.g., Editorial, *Briggs at the Helm*, CLEV. PRESS, July 18, 1977, at B4 (praising extension of Briggs' contract and noting that as district moves into the "troubled waters" of desegregation, "it should be reassuring to know that the same firm hand will be at the tiller"); Editorial, *Briggs Steps Aside*, PLAIN DEALER (Cleveland), Apr. 28, 1978, at A22 (praising Briggs' tenure and lamenting his departure).

241. See, e.g., Hitchcock, *supra* note 147, at B26 (quoting school board president John Gallagher, Jr., "Paul Briggs was all public relations, he was a showman who left us with a \$36 million deficit and skipped town. That's not a blanket criticism; he developed many fine programs and built beautiful buildings."); *How Did Schools Become Unraveled?: PR Facade by Paul Briggs Helped Obscure Serious Problems*, PLAIN DEALER (Cleveland), May 20, 1979, § 2, at 6 (concluding that media and public had uncritically accepted representations made by Briggs and that, in retrospect, "many promises were not kept and many claims were hollow").

242. See, e.g., Editorial, *Too Soon to Say 'Flight'*, PLAIN DEALER (CLEVELAND), May 12, 1976, at A20 (criticizing school officials for linking drop in advance kindergarten registrations to pending desegregation case); Editorial, *Fear of Busing*, CLEV. PRESS, May 14, 1976, at A12 (reporting sharp drop in registration, particularly in kindergarten classes; reporting Press survey showing that "concern is almost exclusively among white parents").

243. See, e.g., Thomas H. Gaumer, *Seek Compromise on Busing, City Told*, PLAIN DEALER (CLEVELAND), Jan. 28, 1976, at B9 (comparing Cleveland to Detroit and mentioning Detroit's loss of white students to private or suburban schools); Gaumer, *supra* note 228, at 24–26 (posing to Nathaniel Jones the issue of white flight and enrollment drop in Boston following implementation of busing).

Shortly after the finding of guilt against the school district, but before a determination of the appropriate remedy (for example, busing or magnet schools), headlines began to appear discussing the downward trend in enrollment.²⁴⁴ Although court proceedings and logistical difficulties delayed the implementation of the busing remedy until the fall of 1979, declining enrollment figures and ominous predictions continued to make the news.²⁴⁵

What was rarely discussed, however, was the fact that enrollment had been declining in Cleveland since the mid-1960s, when it peaked at approximately 154,000 students. In 1973, prior to the filing of the NAACP's lawsuit, enrollment had dropped to 138,454. When classes opened in September of 1976, just days after the Battisti ruling, the number of students had declined to 122,727.²⁴⁶ When the OSMCR report examined the issue of declining enrollments, one of its most surprising findings was the fact that Cleveland's 38% drop in the number of students from 1969 to 1979 was only seven percentage points higher than the countywide average of 31%.²⁴⁷ Moreover, five suburban districts in Cuyahoga County actually had experienced a higher rate of decline than the Cleveland public schools.²⁴⁸ Overall, ten suburban school districts experienced enrollment drops between 32% and 42%.²⁴⁹

According to the OSMCR report, the primary cause of the declining enrollment was a corresponding drop in birthrates.²⁵⁰ For example, in 1956, there were 24,822 live births in the city of Cleveland and the birthrate was 27.1.²⁵¹ By 1974, six years before these infants would have enrolled in first grade (and six years before the commencement of busing at the elementary level), these same numbers bottomed out at 10,579 and a birthrate of 14.1, where

244. See, e.g., *City School Enrollment Down 8,500*, PLAIN DEALER (CLEVELAND), Sept. 8, 1976, at B8 (discussing possible linkage between desegregation ruling and decline in students); Thomas H. Gaumer, *Down, Not Out; Loss of Pupils Is Smaller Than Feared*, PLAIN DEALER (CLEVELAND), Oct. 3, 1976, § 1, at 20 (reporting smaller enrollment drop than originally feared).

245. See, e.g., *City School Enrollment May Dip 14,000 By Fall*, PLAIN DEALER (CLEVELAND), June 16, 1977, at A8 (reporting estimates by school officials); *City Public Schools' Pupil Exodus Doubles*, PLAIN DEALER (Cleveland), Feb. 10, 1978, at A7 (reporting near equal rates of blacks and whites leaving the district); Bud Weidenthal, *Enrollment Seen Dropping By 10%*, CLEV. PRESS, July 13, 1979, at A9 (reporting that estimates of enrollment declines were unrelated to the possibility of court-ordered busing).

246. For historical enrollment data on the Cleveland public schools, see Chart 3 and Appendix B.

247. OSMCR report, *supra* note 216, at 7 & tbl. II-1.

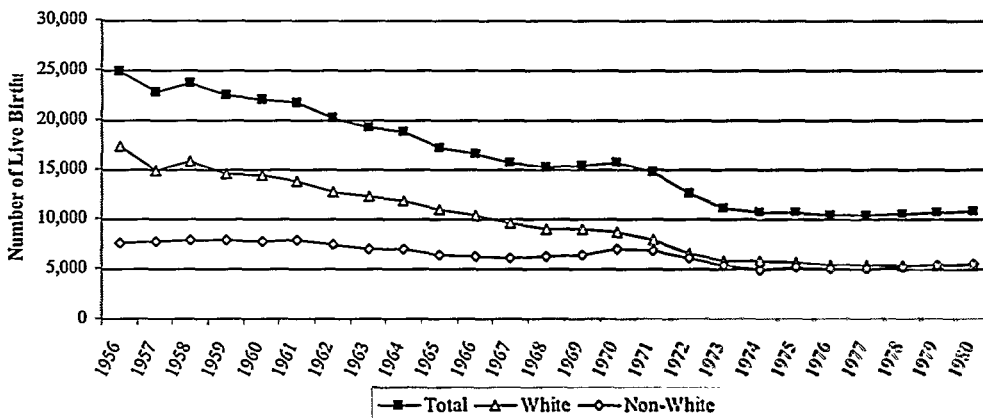
248. *Id.* It is interesting to note that all five communities (Fairview Park, Euclid, Garfield Heights, Maple Heights, and South Euclid-Lyndhurst) had overwhelmingly white student enrollments.

249. OSMCR report, *supra* note 216, at tbl. II-1.

250. *Id.* at 20 (stating that "[t]he major reason for enrollment decline in the Cleveland System is the erosion of school age population caused by overall population loss and a smaller number of annual births").

251. *Id.* at tbl. II-8. Birthrate means the number of births per thousand population. See *id.* at 9.

Chart 4: Live Births in Cleveland, 1956-1980



Source: Everett Cataldo, *Enrollment Decline and School Desegregation in Cleveland* (1982).

they remained relatively stable for the next six years.²⁵² The birthrate data for the city of Cleveland is set forth in Chart 4 (compare with enrollment data in Chart 3). Thus, purely from a demographic perspective, there was a significant disparity each year between the number of high school students exiting the system compared to the incoming class at the elementary level.

3. *Outmigration to Suburban and Private Schools*

The primary goal of the OSMCR report was to identify how much white flight was attributable specifically to desegregation.²⁵³ Because there already was significant downward pressure on enrollment due to the ongoing pattern of outmigration, Professor Cataldo made baseline, or “expected,” enrollment projections for 1978 to 1980 based on the proportion of transfers vis-à-vis total enrollment from 1968 to 1977.²⁵⁴ Using this methodology, the OSMCR report calculated that of the 41,518 transfers out of the Cleveland schools from 1978 through 1980 (the implementation period), 28,550 transfers, or 69%, would have been expected to occur based on historical patterns from 1968 to 1977 (the preimplementation period).²⁵⁵ Stated in the alternative, from 1978 to 1980, there

252. *Id.* at tbl. II-8.

253. See OSMCR report, *supra* note 216 and accompanying text.

254. The data used to make this model and subsequent calculations consisted of all transfers out of the district between 1968 and 1980, falling into three categories: (1) transfers to private and parochial schools in Cleveland; (2) transfers to other schools in Cuyahoga County; (3) transfers to schools outside Cuyahoga County (and often outside the state of Ohio). The 1968–1977 proportions of each of these three categories were used to formulate the “expected” baselines in the 1978–1980 time period. The OSMCR report also had a racial breakdown of transfer data beginning in 1976. See OSMCR report, *supra* note 216, at tbls. II-9 to II-15.

255. OSMCR report, *supra* note 216, at 22. The OSMCR report separates out 1978 despite the fact that implementation occurred between 1979 and 1980. The consensus in the social science

were 12,967 transfers, or 31%, out of the Cleveland public schools that were in excess of historically based projections.

In assessing the effect of the desegregation order on the enrollment within the Cleveland public schools, the OSMCR figure of 12,967 unexpected transfers serves as a useful starting point. According to the social science literature discussed in Part I.A, the brunt of desegregation-related white flight occurs during the implementation year.²⁵⁶ In Cleveland, the mandatory student reassignments, or busing, began in the high schools in the fall of 1979 and was gradually phased into the middle and elementary schools by the fall of 1980. Because transfers were recorded on an ongoing basis and thus aggregated by calendar year rather than school year,²⁵⁷ the OSMCR projections expand the implementation period to include twenty-one months of transfers before the actual commencement of busing. Though it is plausible to argue that the OSMCR report underestimates "anticipatory" white flight that occurred prior to 1978 (an argument which is addressed in Part II.B.4), it is important to note that these projections are consistent with the current social science literature and arguably are overinclusive of 1978–1979, a period when busing had not yet commenced, but both the city and the public schools were engulfed in political and financial turmoil.²⁵⁸

Under the OSMCR projections, 12,967 represents the outer limits of transfers attributable to desegregation. Yet, one of the major accomplishments of the OSMCR report was the collection of transfer data out of the Cleveland public schools, categorized according to race and the location of the destination school, which in turn permits a more detailed analysis of how the desegregation order affected enrollment. A summary of the OSMCR data is presented in Table 4.²⁵⁹

Three important inferences can be drawn from OSMCR transfer data presented in Table 4. First, only 31% of white transfers in excess of expectations (and 25% overall) were to private or parochial schools in the city of Cleveland. This figure conflicts with the consensus among social scientists that "most flight from desegregation is to private schools within the district, rather

literature is that white flight is primarily experienced during the implementation period. *See supra* note 24 and accompanying text.

256. *See supra* note 24 and accompanying text.

257. *See* OSMCR report, *supra* note 216, at 6 (noting that withdrawal data was recorded by date of occurrence).

258. *See supra* Parts II.A.4 and II.A.5. Professor Cataldo in fact argues that the 12,967 figure by itself was almost certainly overinclusive. *See* OSMCR report, *supra* note 216, at 24–25 (concluding that it is "highly unlikely" that all of these transfers were due to desegregation because the social science literature does not support "anticipatory" white flight extending two years prior to implementation; close to one half of all transfers were blacks, who as a group were much less opposed to court-ordered desegregation; and the financial and political turmoil were endemic to Cleveland and its public schools during the 1978–1980 time period).

259. The data and methodology used to generate these predictions is briefly described *supra* note 254 and fully set forth in OSMCR report, *supra* note 216, tbls. II-9 to II-15.

Table 4: Excess Transfers by Race and Destination, 1978–1980

Race, % of race by transfer destination	To Private/Parochial Schools in Cleveland		To Other Schools in Cuyahoga County		To Schools Outside Cuyahoga County		Total Excess Transfers	
	Number	% Excess	Number	% Excess	Number	% Excess	Number	% Total
White	2078	64.1%	2920	44.4%	1707	54.2%	6705	51.7%
%	31.0%		43.5%		25.5%		100.0%	
Black	1034	31.9%	3530	53.7%	1172	37.2%	5736	44.2%
%	18.0%		61.5%		20.4%		100.0%	
Other	132	4.1%	121	1.8%	273	8.7%	526	4.1%
%	25.2%		23.0%		51.9%		100.0%	
Total	3244	100.0%	6571	100.0%	3152	100.0%	12,967	100%
% all races	25.0%		50.7%		24.3%		100.0%	

Source: EVERETT CATALDO, ENROLLMENT DECLINE AND SCHOOL DESEGREGATION IN CLEVELAND: AN ANALYSIS OF TRENDS AND CAUSES, at Table II-13 (1982). Percentages calculated by author.

than residential relocation.²⁶⁰ In 1970, approximately 32% of white Cleveland students were enrolled in private schools compared to 22% for their suburban counterparts,²⁶¹ which suggests that the city of Cleveland had a fairly well-developed menu of private school alternatives.²⁶²

Although it is plausible to argue that the relatively cheap price of suburban housing made relocation the preferred method of flight from Cleveland,²⁶³ this theory is not supported by the findings of investigative journalists who examined real estate listings throughout the metropolitan area during the summer of 1978 and determined that the high volume of sellers were distributed evenly across suburban communities and the city's east and west sides.²⁶⁴ If a large number of Clevelanders all were trying to exit the city during the same time period, we would expect to see a substantial differential between the number of city and suburban listings. The large volume of *both* city and suburban listings suggests a structural change affecting the entire regional economy. To the extent that

260. Clark, *supra* note 23, at 214 (reporting consensus among researchers on this issue; providing citations to studies).

261. See David R. James, *City Limits on Racial Equality: The Effects of City-Suburb Boundaries on Public-School Desegregation, 1968–76*, AM. SOC. REV. 963, 969 tbl. 1 (1989) (compiling data from U.S. Census Bureau, other scholars, and U.S. Commission on Civil Rights on several cities, including Cleveland).

262. Cf. Rossell, *supra* note 29, at 162 (theorizing that central city school districts “usually have a large number of parochial schools . . . [that] can serve as a haven for white students fleeing desegregation, meaning that students may be leaving the public schools but not the city”).

263. See Bier, *supra* note 89, at 254 (observing that before 1980, “land for the expansion of outer suburbs around Cleveland was inexpensive”).

264. See *supra* notes 122–123 and accompanying text.

white movement to the suburbs was abnormally high during the 1978–1980 implementation period, an equally plausible explanation is the dynamics of the economic and social conditions model; namely, that poor city services, deteriorating schools, labor strife among teachers, and the upward pressure on taxes made exit the most rational strategy for middle-class families, black or white, who had the wherewithal to move.

The second important inference that can be derived from the OSMCR transfer data is the likely impact of economic restructuring on enrollment declines. Of all unexpected transfers, 24.3% were to districts outside Cuyahoga County. Although some white families could have been prompted by desegregation to relocate to an adjacent county, the close parallel between black and white students relocating outside of the county suggests that this effect probably was quite small. The percentage of transfers outside Cuyahoga County was quite similar for both black and white students (20.4% and 25.3%) as was the actual number of unexpected transfers (1172 and 1707 for blacks and whites respectively). Furthermore, the OSMCR report observed that many of these transfers “were the product of moves outside of the state One might reasonably contend that a move to Medina County was motivated by a desire to avoid desegregation, but not a move to Chicago, Corpus Christi, Los Angeles, Tampa, San Juan or Israel.”²⁶⁵

Finally, the third important inference arising from the OSMCR transfer data is the improbability that the large proportion of unexpected transfers among black students (5736 of 12,967 total) can be fully, or even primarily, attributable to desegregation. Although many blacks may have opposed desegregation efforts, the social science literature uniformly agrees that avoidance strategies are far more likely to occur among whites.²⁶⁶ In addition, this conclusion is supported by contemporaneous evidence in Cleveland. According to a 1976 poll conducted by a political scientist at Cleveland State University, a total of 75% of all parents preferred neighborhood schools, but black parents were “twice as likely as whites to feel that a neighborhood school is unimportant.”²⁶⁷ Moreover, only 11% of *all* respondents stated that they would send their children

265. See OSMCR report, *supra* note 216, at 25.

266. See, e.g., ARMOR, *supra* note 23, at 195–208 (using national polling data to calibrate black versus white opposition to busing in several U.S. cities).

267. Thomas H. Gaumer, *Integration Backed Here, Study Shows*, PLAIN DEALER (Cleveland), July 7, 1976, at A1 (reporting results of survey poll conducted by Professor Jack L. Noragon). In a survey conducted by the Greater Cleveland Project in August of 1979, 269 Cleveland parents listed desegregation as the twelfth most important issue facing the school district, but seventh among white parents alone. Among white respondents, 46% planned to remove their children from school if busing is implemented versus 30% of black respondents. See Christopher Jensen, *Teacher Meetings, Quality on Parents' Minds*, PLAIN DEALER (Cleveland), Nov. 15, 1979, at A6 (reporting findings of survey conducted by the Greater Cleveland Project). Although the relatively small sample is likely to be biased in favor of concerned parents who are willing to take the time to respond to the survey, its racial breakdown is similar to the 1976 poll and is consistent with the social science literature and the 1976 poll.

to private schools rather than submit to busing, and only 4% stated that they would move.²⁶⁸

The fact that so many black families were relocating to the suburbs strongly suggests motivations unrelated to desegregation. Aside from the general deterioration and chaos that was engulfing the city of Cleveland and its public schools, one possible explanation was the failure of four consecutive school levies during the 1978–1979 time period, despite overwhelming support in the city’s predominantly black wards.²⁶⁹ Without additional funding for books, supplies, and adequate teachers’ salaries, a desegregated education meant little. Unable to effectuate their preferences at the ballot box, black families in Cleveland may have been voting with their feet.

4. Possible White Flight in “Anticipation” of Busing

One major criticism that can be directed at the OSMCR expected transfer model is that it significantly underestimates the negative enrollment effects of desegregation by failing to account for “anticipatory” white flight that occurred in the years preceding 1978. In the OSMCR report, Professor Cataldo specifically addressed and rejected this claim, stating that existing social science had determined that the “anticipation effect” actually was quite small,²⁷⁰ a finding that has since been corroborated by additional studies.²⁷¹ In fact, because transfers occurring in the 1978 calendar year significantly predated the implementation of busing at the high school (fall 1979) and elementary (fall 1980) levels, the OSMCR report ultimately discounted the likelihood that the 1978 unexpected transfers could be fairly attributed to desegregation.²⁷² Therefore, the OSMCR report concluded the enrollment decline caused by

268. Regrettably, the news story that reported this poll did not provide a breakdown of avoidance strategies among black and white families separately. See Gaumer, *supra* note 267, at A1. To some readers, these figures may seem implausibly low. However, it is important to note that this poll was taken nearly two months before a guilty verdict against the school district was rendered by Judge Battisti. Therefore, poll respondents may have discounted the intensity of their preferences according to the hypothetical nature of the question, thus undercutting any perceived inference that they were racist. Cf. *supra* note 267 (discussing 1979 survey results which found that 47% of white parents and 30% black parents plan to remove their children from the Cleveland public schools if busing is implemented). Nonetheless, it is important to note the proportion of threatened private school enrollment versus relocation, which is entirely consistent with the social science. See Clark, *supra* note 23, at 214 (asserting as a settled point among researchers that “most flight from desegregation is to private schools within the district, rather than residential relocation outside the district”).

269. See *supra* note 161 and accompanying text.

270. See OSMCR report, *supra* note 216, at 21, 24 (citing Rossell, *supra* note 29, at 163).

271. This finding was discussed in Part I.A. See social science literature cited, *supra* note 24 and accompanying text.

272. See OSMCR report, *supra* note 216, at 24–25 (concluding that it was “highly unlikely” that all 12,967 transfers in excess of expectations were attributable to desegregation due to financial and academic strife that had befallen the district, including a series of teacher strikes, the fiscal default of the city of Cleveland, and a “prolonged slump” in Cleveland area economy).

desegregation was at most 4834 students (20.2% of the total drop) during the two-year 1979–1980 implementation period.²⁷³

One factor which strongly suggests that the implementation period should not be expanded beyond 1978 is the precipitous drop in first grade enrollment that occurred when busing commenced at the elementary school level in the fall of 1980. The OSMCR report collected data for the number of births in Cleveland from 1965 to 1975 and compared them to first grade enrollment patterns from 1971 to 1981. From 1971 to 1979, first grade enrollments as a percentage of births six years earlier consistently hovered between 69.9% and 64.6%, with no downward trend.²⁷⁴ However, in 1980, this figure plunged to 51.4%.²⁷⁵ This outcome is entirely consistent with the social science literature, which predicts that the brunt of enrollment loss will occur during the implementation period.²⁷⁶ The following year enrollment recovered to 61.2%.

A second factor which undercuts the anticipatory white flight hypothesis is the profound uncertainty that existed in metropolitan Cleveland regarding the possible scope of a busing remedy. Both before and after Judge Battisti rendered his verdict against school officials, newspaper accounts were discussing the possibility of including the suburbs in any desegregation plan.²⁷⁷ Although in

273. *Id.* at 25–26 (conceding as desegregation effect all transfers of blacks and other minorities, all of the “missing” first graders during the fall of 1980, and all transfers to adjacent or nearby counties. “Therefore, any error in this estimate is on the side of attributing to desegregation a greater effect on enrollment decline than it actually may have had.”).

274. *See id.* at 16, tbl. II-17. The following is the ratio of births to subsequent first grade enrollment, by year of enrollment: 69.9% in 1971, 67.6% in 1972, 64.6% in 1973, 66.8% in 1974, 64.9% in 1975, 65.8% in 1976, 66.8% in 1977, 69.2% in 1978, 64.9% in 1979, 51.5% in 1980, and 61.2% in 1981.

275. *See id.*

276. *See supra* note 24 and accompanying text.

277. *See* Thomas H. Gaumer, *Busing to Suburbs Deemed Unlikely*, PLAIN DEALER (Cleveland), Dec. 31, 1976, at A8 (reporting mounting pressure on Ohio Board of Education to back off suburban proposal); Katherine L. Hatton & Lou Mio, *Suburban Schools Wait For Busing Ruling; No Support Found Among 19 Superintendents*, PLAIN DEALER (Cleveland), Mar. 17, 1976, at A5 (polling suburban superintendent on possible inclusion in desegregation remedy); Christine J. Jindra & Thomas Gaumer, *County Busing Order Possible, NAACP Claims*, PLAIN DEALER (Cleveland), Mar. 17, 1976, at A2 (reporting assessment by NAACP that the Cleveland case can be distinguished from the Detroit case (*Milliken I*)); Christine J. Jindra & Thomas H. Gaumer, *NAACP Seeks County Desegregation Plan*, PLAIN DEALER (Cleveland), Mar. 16, 1976, at A1 (discussing arguments made by NAACP to Judge Battisti that “Cleveland and its suburbs are not meaningfully separate and autonomous” and asking for desegregation order that encompassed all of Cuyahoga County); *see also* Thomas Brazaitis, *Rights Panel Backs City-Suburb Busing*, PLAIN DEALER (Cleveland), Feb. 16, 1977, at A1 (reporting on opinion of U.S. Commission on Civil Rights); Thomas H. Gaumer, *Briggs Urges Joint School Plan for City, Suburbs*, PLAIN DEALER (Cleveland), Sept. 17, 1976, at A1; Thomas H. Gaumer, *Clevelanders Would Like Suburb Pupils Included; Desegregation Questionnaire*, PLAIN DEALER (Cleveland), Dec. 11, 1976, at A1; Thomas H. Gaumer, *Groups Organize Across County to Combat Busing*, PLAIN DEALER (Cleveland), Mar. 6, 1977, § 1, at 21; Thomas H. Gaumer, *State Desegregation Plans Cover Suburbs*, PLAIN DEALER (Cleveland), Oct. 20, 1976, at A1; Thomas H. Gaumer, *Suburban Schools Are Urged to Start Desegregation Plan*, PLAIN DEALER (Cleveland), Oct. 22, 1976, at A11; Thomas H. Gaumer, *Suburban Schools Must Integrate, Too, Briggs Says*, PLAIN DEALER (Cleveland), Aug. 27, 1976, at

Milliken I the Supreme Court essentially eliminated interdistrict remedies in the absence of an interdistrict violation of the Equal Protection Clause, thus making suburban involvement unlikely, it would be unreasonable to ascribe this level of legal sophistication to non-lawyers. Furthermore, school officials went to great lengths to proclaim their intention to fully exhaust the appeals process.²⁷⁸ Until July of 1979, when the Supreme Court issued its decision in *Columbus Board of Education v. Penick* and the Sixth Circuit vacated its stay against the Cleveland busing plan,²⁷⁹ Cleveland residents had a reasonable basis to believe that busing might never take place. In March of 1980, the Supreme Court denied certiorari. In dissent, three Justices agreed that the record contained overwhelming evidence of intentional discrimination; nevertheless, they would have granted review on the scope of the busing remedy.²⁸⁰

Finally, there is a paucity of social science to support the anticipatory white flight hypothesis. In the extensive preparation for this article, this author located only one scholar, Professor Armor, who suggested that white flight, in some instances, may significantly predate the implementation period.²⁸¹ This hypothesis was meant to encompass cities such as Cleveland, where a considerable period of time passed between the filing of the discrimination lawsuit and the eventual implementation of busing.²⁸² However, part of Armor's model also predicted that mandatory desegregation would cause

A1; Thomas H. Gaumer, *Suburbanites Phoning in about Busing; Want to Know Ruling's Effect*, PLAIN DEALER (Cleveland), Oct. 18, 1976, at A8; Jane M. Littleton, *City School Guidelines Drawn; Suburban Involvement Open*, PLAIN DEALER (Cleveland), Dec. 8, 1976, at A1; Andrea E. Naversen, *Judge Left Door to Suburbs Open*, PLAIN DEALER (Cleveland), Sept. 1, 1976, at A16.

278. See Adams et al., *supra* note 186, at 24–25 (discussing stay of desegregation order pending Supreme Court's ruling in *Penick*); *City Desegregation Case Appealed Again*, PLAIN DEALER (Cleveland), Apr. 5, 1978, at A9 (reporting that school board "has repeated its plea to the U.S. Court of Appeals (6th Circuit) to overturn the findings" of Judge Battisti); *Court Battles Bog Down Desegregation Plan*, Plain Dealer (Cleveland), Nov. 20, 1977, § 6, at 14 (discussing problems created by "conflicting federal and state court orders" and pendency of Sixth Circuit appeal); Thomas H. Gaumer, *Desegregation Plan Delay is Ordered; Until Appeals Court Rules*, PLAIN DEALER (Cleveland), Sept. 21, 1976, at A1 (reporting on order from Sixth Circuit judge staying desegregation order until end of appeals process); Thomas H. Gaumer, *Evidence Ignored, Board Appeal Says*, PLAIN DEALER (Cleveland), Sept. 9, 1976, at A8; *High Court Backs Battisti, Ends Busing Battles Here*, CLEV. PRESS, Mar. 17, 1980, at A1 (reporting denial of certiorari and dissent of three Justices); Elizabeth Olson, *Board Seeks High Court Ruling on Desegregation*, CLEV. PRESS, Nov. 24, 1979, at A5; *School Board to Appeal Ruling*, PLAIN DEALER (Cleveland), Sept. 1, 1976, at A1 (reporting unanimous decision by school board to appeal); *School Fight Moves into Appellate Court*, PLAIN DEALER (Cleveland), June 25, 1978, § 7, at 10.

279. 443 U.S. 916 (1979); see also *supra* notes 196–97 and accompanying text.

280. *Cleveland Bd. of Educ. v. Reed*, 445 U.S. 935, 936–37 (1980) (Rehnquist, J., dissenting) (dissent in certiorari petition joined by Chief Justice Burger and Justice Powell).

281. See David J. Armor, *White Flight and the Future of School Desegregation*, in *SCHOOL DESEGREGATION: PAST, PRESENT, AND FUTURE* (Walter G. Stephan & Joe R. Feagin eds., 1980). An earlier version of this paper was published by the Rand Corporation. Its ideas ultimately served as the basis for Armor's court testimony.

282. See *id.* at 194, 203 n.10 (questioning ability of models to capture full extent of white flight in Cleveland and other cities where litigation significantly predated implementation).

significant, ongoing losses in white enrollment for up to four years after the implementation of busing.²⁸³ In the third year following full implementation, white enrollment in Cleveland actually increased by 8.8%.²⁸⁴ Moreover, it appears that Armor may have retreated from his earlier emphasis on the anticipation effect. In his 1995 book, which is a comprehensive treatment of school desegregation, Armor stated, "White losses are . . . elevated in the year just before busing begins."²⁸⁵

Because busing in Cleveland did not commence until the fall of 1979, reliance on 1978–1980 as the implementation period should sweep in most or all of the anticipatory white flight effect. The data presented by the OSMCR report therefore fully comports with the available social science. This conclusion also brings us back to an issue touched on earlier: How many of the excess transfers during the implementation period were attributable to desegregation rather than the underlying social and economic conditions?

5. *Summary of Desegregation/White Flight Model in Cleveland*

Based on the three criteria of the desegregation/white flight model set forth in Part I.A, this critical case study of Cleveland represents a fair test for assessing the extent of white flight specifically attributed to court-ordered busing: (1) the Cleveland plan imposed mandatory rather than voluntary pupil reassignments; (2) it involved only the city of Cleveland rather than the surrounding metropolitan area; and (3) it was implemented in a system that was already 60% minority before the desegregation order was issued.

Nevertheless, the available evidence suggests that the desegregation order by itself did not have a major, long-term effect on enrollment patterns or outmigration from the city. Of the 12,967 excess transfers from the Cleveland public schools during the 1978 to 1980 implementation period, only 6705 students (51.7%) were white.²⁸⁶ Moreover, of all white transfers in excess of expectations, 2920 (43.3%) were to adjacent suburbs; the identical figure for black students was 3530 (61.5%).²⁸⁷ Thus, both in proportional and absolute terms, the outmigration to the suburbs appears to have accelerated fastest among Cleveland's black population.

Although the loss of presumably middle-class black families was undoubtedly a serious blow to the Cleveland public schools, it is implausible to characterize all of this flight as a response to desegregation. During this period, the black residents of Cleveland overwhelmingly supported the failed school

283. See *id.* at 201–03 & fig. 1 (discussing model and depicting actual and projected white enrollment loss).

284. During the same period (1982–83), black and other minority enrollment increased only 2.8% and 7.9% respectively. See Appendix B and Chart 3.

285. ARMOR, *supra* note 23, at 178.

286. See *supra* Table 4.

287. See *id.*

levies²⁸⁸ and were much less committed to the necessity of neighborhood schools.²⁸⁹ Imputing all 12,967 excess transfers to the desegregation order seems to undercut the assumption made by social scientists, courts, and the public that the most serious consequence of school desegregation has been *white flight*. While this assumption may warrant reevaluation, this article suggests that the more sensible interpretation of the data is that dire social and economic conditions were pushing both the black and white middle class out of Cleveland.²⁹⁰

This article will not attempt a precise numerical estimate of how enrollment or outmigration was affected when the economic and social conditions model overlapped with the desegregation/white flight model. It is probably sufficient to say that the total effect was significantly less than the 12,967 students calculated by the OSMCR report. Moreover, only 6571 students of this total transferred to nearby suburban districts, a figure which hardly supports the charge that the desegregation order “devastated” the city’s population base.²⁹¹ In sum, the causal connection between the 1976 desegregation order and white flight at most moderately accelerated a longstanding process that had already gained substantial momentum on its own. Section C will examine economic, social, and demographic trends in Cleveland and its surrounding suburbs during the last twenty years. Finally, Section D will finish the case study with an examination of current patterns and statistics covering socioeconomics, race, and school performance throughout the Cleveland metropolitan area.

C. Economic and Social Conditions in Metropolitan Cleveland, 1980–1998

This section begins with the following thought experiment: If we were to assume that the desegregation order never had occurred, but that schools officials had at a minimum ended their policy of intentional racial discrimination, can we imagine a sequence of events whereby an average middle-class family would willingly have enrolled their child in the Cleveland public schools at any time during the last twenty years? Without bold legislative initiatives, this article suggests that such a story would be highly implausible.

This section tells two parallel stories of the last twenty years. First, affluent residents increasingly have moved from inner-ring suburbs to the outskirts of the metropolitan area. As a result, many older suburbs now are dealing with the same issues of crime, blight, and fiscal distress that were at one time confined to

288. See *supra* note 161 and accompanying text.

289. See *supra* notes 267–68 and accompanying text.

290. Because residential segregation was (and is) quite prevalent in the city of Cleveland, it is certainly plausible that differing economic and social conditions among Cleveland neighborhoods resulted in a differential in white and black outmigration. This type of precise analysis, however, is beyond the scope of this article.

291. Larkin, *supra* note 4, at F1 (listing Battisti decision as eighth most significant event in Cleveland during last century).

the city of Cleveland. Second, the residents that remained in Cleveland during the 1980s and early 1990s often experienced extreme levels of racial and socioeconomic isolation. In such an environment, the social pathologies of crime, drug addiction, welfare dependency, and teenage births have proliferated, further exacerbating the downward spiral of social conditions.

1. *New Suburbs Prosper, Old Suburbs Decline*

For at least the last twenty-five years, outmigration from the city of Cleveland has been a phenomenon that most residents of the metropolitan area have taken for granted.²⁹² However, in recent years, the border between the city of Cleveland and its inner-ring suburbs has become increasingly irrelevant, as the region's most affluent families continue to relocate to booming new communities on the urban fringe. For example, in 1993, researchers at Cleveland State University tracked the movement of Cuyahoga County homeowners who sold their homes during the 1987 to 1991 time period and purchased another home in the seven-county MSA. The main findings of the report revealed that:

most Cuyahoga County homesellers (1) moved from the community where they had been living, (2) moved outward, and (3) purchased a more expensive home. In total, 71 percent of all moves were outward (that is, the home purchased was further from downtown Cleveland than the home sold) and 25 percent were to an adjacent county. Movement outward was five times greater than movement inward.²⁹³

One of the major innovations of the 1993 report is that its data fully and unmistakably captures the underlying dynamic of the filtering process.²⁹⁴ For example, from 1987 to 1991, 87.6% of homesellers on Cleveland's east side and 86.7% on the west side were moving out of the city limits. The most popular communities in Cuyahoga County for relocation were the cities Euclid and Parma, which are both located on the border of Cleveland. (See Table 5.) In turn, sellers in Euclid and Parma relocated outside of their city limits at a rate of 79.3% and 70.6%, respectively. (See Table 6.) Their most popular destinations generally were more expensive homes even further from the city of Cleveland. It should be noted that the number of Euclid sellers who relocated to an adjacent county (59.0%) was strongly influenced by the fact that Euclid shares a border with Lake County and is connected by a major interstate freeway. The most

292. Compare Editorial, *supra* note 124, at B2 (discussing evidence of substantial outmigration in a 1975 U.S. Census report and arguing that "[n]obody should be scared by decreases in population in any core city in any metropolitan area, especially in the older parts of the United States"), with *Outward Bound: East, West, or South, Greater Clevelanders Move for Schools, Safety—And With Few Regrets*, PLAIN DEALER (Cleveland), Sept. 15, 1996, at A1 (discussing reasons why sixty-four metropolitan area residents moved further from the urban core and acknowledging ongoing trend).

293. BIER & MARIC, *supra* note 90, at 1.

294. For a discussion of the filtering process, see *supra* notes 56–57 and accompanying text.

population destination for Euclid sellers relocating to Lake County was the suburb of Mentor,²⁹⁵ which had a 1990 average home value of \$96,811. Each of these communities can be located on Map 2 in Appendix A. The significance of this data is that the families of modest to middle-class means have moved from Cleveland to inner-ring suburbs, while families of middle to upper-class means have moved to outer-ring suburbs. Obviously, poor families were (and are) more likely to remain in Cleveland, where housing prices are typically lower. In 1990, the median home value in the city was \$40,400.²⁹⁶

The 1993 report concluded that outmigration “is the fundamental shaper of the city of Cleveland, its suburbs, the region” and that its increasing momentum directly threatened the vitality of Cuyahoga County.²⁹⁷ This claim found additional support in 1997 when researchers at Cleveland State University conducted a follow-up study that examined emerging tax base disparities throughout the seven-county MSA.²⁹⁸ With few exceptions, suburbs in close

Table 5: Cleveland Sellers, Destinations in Cuyahoga County

<i>Cleveland Sellers (East)</i>	<i>Destination % of Total</i>	<i>Avg. Home Price, 1990</i>	<i>Cleveland Sellers (West)</i>	<i>Destination % of Total</i>	<i>Avg. Home Price, 1990</i>
Euclid	10.1%	\$66,578	Parma	11.7%	\$78,106
Garfield Hts.	5.3%	\$58,607	North Olmsted	7.6%	\$99,657
Bedford Hts.	4.9%	\$70,904	Strongsville	5.4%	\$123,445
Maple Hts.	4.8%	\$58,323	Lakewood	4.5%	\$87,038
Adjacent County	28.6%		Adjacent County	23.0%	

Sources: THOMAS BIER & IVAN MARIC, CUYAHOGA COUNTY OUTMIGRATION (1993); U.S. Census.

Table 6: Euclid and Parma Sellers, Destinations in Cuyahoga County

<i>Euclid Sellers</i>	<i>Destination % of Total</i>	<i>Avg. Home Price, 1990</i>	<i>Parma Sellers</i>	<i>Destination % of Total</i>	<i>Avg. Home Price, 1990</i>
Highland Hts.	2.7%	\$112,706	North Royalton	15.4%	\$116,846
Richmond Hts.	2.5%	\$104,800	Strongsville	10.8%	\$123,445
Lyndhurst	1.3%	\$97,279	Parma Hts.	4.6%	\$79,736
Mayfield Hts.	1.3%	\$87,701	Seven Hills	4.4%	\$94,147
Adjacent County	59.0%		Adjacent County	15.3%	

Sources: THOMAS BIER & IVAN MARIC, CUYAHOGA COUNTY OUTMIGRATION (1993); U.S. Census.

295. See BIER & MARIC, *supra* note 90, at 10.

296. U.S. Census Bureau, 1990 Census, *available at* www.census.gov.

297. BIER & MARIC, *supra* note 90, at 9 (concluding that “[o]utmigration that is unbalanced with immigration will result in (1) deepening decline of the city of Cleveland, (2) suburban decline that becomes as serious as Cleveland’s and (3) Cuyahoga County decline”).

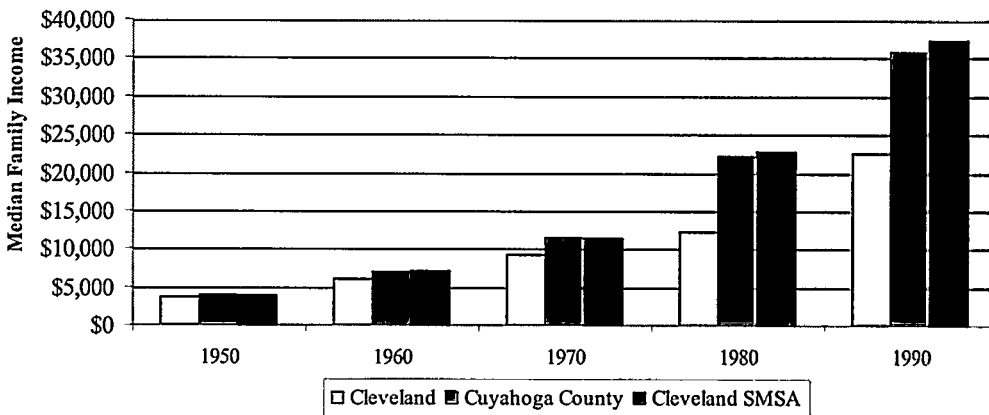
298. See THOMAS BIER ET AL., TAX BASE DISPARITY: DEVELOPMENT OF GREATER CLEVELAND’S SAPPHIRE NECKLACE 38 (1997) (reporting that Cuyahoga County continues to lose population as area residents continue to relocate to new residential housing in adjacent counties, and that increased tax burdens on remaining residents would increase the appeal of outlying communities).

proximity to Cleveland had significantly higher property tax rates than communities at the suburban fringe and were much more likely to levy income taxes on local residents.²⁹⁹ Despite the lower tax rates, however, these new communities also enjoyed tax bases comprised of new, relatively expensive single-family homes.³⁰⁰ Thus, school districts on the suburban fringe had the combined advantage of adequate funding and a student population drawn from predominately upper-income families. Obviously, this is precisely the type of low-cost/high-quality amenity that serves as the “pull” under the economic and social conditions model. Not surprisingly, between 1983 and 1995, property values in Cleveland and its inner-ring suburbs remained flat while property values in the urban periphery rose rapidly.³⁰¹

2. *The Intensification of Social Pathologies in City of Cleveland*

The economic and socioeconomic conditions experienced by the families that remained in Cleveland during the last two decades present a stark and disturbing contrast to the booming communities on the region’s suburban fringe. At the same time that Judge Battisti’s desegregation order was being implemented during the 1979 and 1980 school years, data was being collected for the 1980 Census. The statistical picture that emerged from this process revealed a central city that had become dramatically poorer relative to the

Chart 5: Median Family Incomes in Cleveland Metropolitan Area, 1950-1990



Source: U.S. Census.

299. *See id.* at 59 & figs. 5, 8 (discussing trends and using maps to depict disparities in housing starts and effective property tax rates).

300. *See id.* at 11, 12 & fig. 10 (using maps to discuss disparity in tax base per pupil and noting that communities in the “Sapphire Necklace” have the highest tax base).

301. *See id.* at 13 & fig. 11 (using map to depict percentage change in total market value and discussing implications).

surrounding suburbs. In 1970, the median family income in the city of Cleveland was \$9107, while the corresponding figures for Cuyahoga County and the Cleveland SMSA³⁰² were \$11,309 and \$11,407 respectively. Thus, the median family income for the region was approximately 24% higher than the median family income in the central city. By 1980, median family income in Cleveland had risen to \$12,277 while the corresponding figures for the county and the region shot up to \$22,071 and \$22,721, representing disparities of 80% and 85% respectively. As reflected in Chart 5, the relative parity of family incomes in 1950 had widened to a gaping abyss by 1980.

During the mid-1970s, commentators on urban policy had already taken note of Cleveland's dangerously high concentrations of poverty,³⁰³ but by 1980, the city was both poorer and smaller in population. From 1970 to 1980, the total number of residents in the city of Cleveland declined 24% (750,879 to 573,822). (See Appendix D.) In contrast, after 1980, the Cleveland population and school enrollment levels declined much more gradually, dropping only 16.6% (573,822 to 478,403) and 3.3% (80,767 to 78,100) in the next two decades. (See Appendices B and D.) Although from 1980 to 2000, the proportional size of the city's black population gradually increased from 43.8% to 51.0%, the total black population during this period actually *declined* from 251,084 to 243,939.³⁰⁴ What has changed significantly during the last two decades is an intensification of various social pathologies among the city's remaining residents. A summary of these conditions are set forth in Table 7.

Using 1980 as a baseline, Professors Julian Chow and Claudia Coulton conducted a case study of Cleveland neighborhoods from 1980 to 1990.³⁰⁵ The primary focus of their article was to test William Julius Wilson's noted theory that intense exposure to violent crime, drug trafficking, school drop-out rates, and long-term welfare dependency, etc., is itself an independent factor, apart from the underlying poverty, that contributes to the downward spiral of

302. The Cleveland SMSA, or standard metropolitan statistical area, is comprised of Cuyahoga, Lake, Geauga, and Medina counties. Greater Cleveland is commonly viewed as a seven-county region that also includes the central cities of Lorain and Akron, which are located in Lorain and Summit counties, respectively. After 1980, the U.S. Bureau of Census created the Cleveland-Akron-Lorain SMSA, or consolidated metropolitan statistical area, which added the remaining counties in Map 1, thus aggregating the Cleveland, Akron, and Lorain SMSAs.

303. See Andrzejewski, *supra* note 136, at A15 (citing "concentrations of poverty and the abandon[ment] by the power structure of persons who remain there" as major source of population loss in cities like Cleveland); Richard C. Widman, *Why Have All The People Gone?*, *PLAN DEALER SUN. MAG.* (Cleveland), Apr. 3, 1977, at 9, 12 (quoting an urban studies professor, "I think [] a lot of people are stranded here. They are the poor and disadvantaged who can't leave but are not being helped by the public institutions.").

304. See *supra* Table 1.

305. Julian Chow & Claudia Coulton, *Was There a Social Transformation of Urban Neighborhoods in the 1980s? A Decade of Worsening Social Conditions in Cleveland, Ohio, USA*, 35 *URB. STUD.* 1359 (1998).

Table 7: Social Conditions in Cleveland, 1980–1990

Social Condition	Rate / 1000		% Change
	1980	1990	1980–1990
Crime against persons	27.20	35.04	28.80%
Property crime	79.09	69.03	-12.71%
Drug violation arrests	1.66	8.12	389.16%
Births to unmarried mothers ^a	437.37	580.10	32.63%
Teenage births ^b	44.09	51.28	16.32%
Youth delinquencies	48.17	67.13	39.35%
Enrollment on ADC	52.74	82.56	56.53%
General assistance	22.27	68.91	209.50%
Infant mortality	20.78	16.06	-22.73%
Low birth weight	105.22	110.88	5.37%

^a Proxy for female-headed family with children.

^b Proxy for teenage mothers between the ages of 11–19 out of all females aged 10–19.

Source: Julian Chow & Claudia Coulton, *Was There a Social Transformation of Urban Neighborhoods in the 1980s? A Decade of Worsening Social Conditions in Cleveland, Ohio, USA*, 35 URB. STUD. 1359 (1998).

social conditions.³⁰⁶ After tracking the change in ten quantitative factors at the census tract level and then conducting a statistical analysis to identify their interrelationships,³⁰⁷ Chow and Coulton remarked:

[O]ver the decade of the 1980s, the relationships among social conditions shifted within Cleveland's inner-city neighbourhoods. The ability to differentiate neighbourhoods along the dimensions of troubling teenager behaviours and family well-being in the early 1980s disappeared. By the late 1980s, a whole set of extreme social conditions were becoming more connected.³⁰⁸

Although Chow and Coulton acknowledged that structural issues such as declining employment opportunities and outmigration had initially caused the high concentrations of neighborhood poverty, they also determined that the resulting homogeneity, consistent with Wilson's hypothesis, was itself a contributing factor to a decade of deteriorating social conditions.³⁰⁹

306. Professor Wilson's theory is set forth in WILLIAM JULIUS WILSON, *THE TRULY DIS-ADVANTAGED: THE INNER CITY, THE UNDERCLASS, AND PUBLIC POLICY* (1987); see also Claudia J. Coulton & Julian Chow, *The Impact of Poverty on Cleveland Neighborhoods*, in *CLEVELAND: A METROPOLITAN READER*, *supra* note 89, at 202 (also using Wilson's theory to examine poverty in Cleveland from 1970 to 1990).

307. The ten factors were personal crime, property crime, drug violation arrests, births to unmarried mothers, teenage births, teenage delinquency, infant mortality, low birthrates, enrollment in general assistance, and participation in Aid to Families with Dependent Children (ADC). See Chow & Coulton, *supra* note 305, at 1362–63, 1367.

308. *Id.* at 1370.

309. *Id.* at 1372–73.

In another study based on the 1980 Census, researchers focused on the dimension of race and determined that Cleveland was one of the most racially segregated regions in the nation, warranting its classification as “hypersegregated.”³¹⁰ Professors Douglas Massey and Nancy Denton analyzed census tract data for sixty metropolitan regions along five potential measurements of racial isolation: (1) uneven distribution of minority populations across the metropolitan area; (2) prevalence of racially homogeneous neighborhoods; (3) the clustering of these neighborhoods so as to form contiguous ghettos; (4) their location near central business districts and away from the suburbs; and (5) concentration in terms of population density and spatial area compared to white neighborhoods.³¹¹ Cleveland was one of six cities to pass the threshold for segregation on all five dimensions.³¹² After a follow-up study examined data from the 1990 Census, Cleveland still remained in the relatively small group of “hypersegregated” regions.³¹³

D. *The Education Nexus: Socioeconomics and School Performance*

In the preceding sections, this article has attempted to set forth nearly a century of social and economic trends that have culminated in the Cleveland metropolitan area as it exists today. Although Cleveland remains the geographic and civic hub of a large seven-county region, the city’s importance in terms of population and employment continues to diminish.³¹⁴ In general, the Cleveland metropolitan area has evolved into roughly three parts along a single continuum: (1) an impoverished and racially isolated central city, (2) a surrounding ring of older, heterogeneous suburbs, and (3) an outer-ring of new, homogenous, and

310. Douglas S. Massey & Nancy A. Denton, *Hypersegregation in U.S. Metropolitan Areas: Black and Hispanic Segregation Along Five Dimensions*, 26 *Demography* 373, 382 (1989) [hereinafter *Hypersegregation*] (analyzing 1980 census tract data in sixty metropolitan areas and designating Cleveland, Detroit, Milwaukee, and Philadelphia as hypersegregated regions based on high scores in five dimensions of racial segregation); see also DOUGLAS S. MASSEY & NANCY A. DENTON, *AMERICAN APARTHEID: SEGREGATION AND THE MAKING OF THE UNDERCLASS* (1993) (critically acclaimed book based on the same research); Mark A. Hughes, *Formation of the Impacted Ghetto: Evidence from Large Metropolitan Areas: 1970–1980*, 11 *URB. GEOGRAPHY* 265 (1990) (placing Cleveland among six other “impacted ghetto areas” because of racial isolation along with a host of other economic and social problems).

311. *Hypersegregation*, *supra* note 310, at 373–75; see also Nancy A. Denton, *The Persistence of Segregation: Links Between Residential Segregation and School Segregation*, 80 *MINN. L. REV.* 795, 798 (1996) (describing methodology of earlier study and summarizing findings).

312. See *Hypersegregation*, *supra* note 310, at 382.

313. See Nancy A. Denton, *Are African-Americans Still Hypersegregated?*, in *RESIDENTIAL APARTHEID: THE AMERICAN LEGACY* 49–81 (Robert Bullard et al. eds., 1994) (updating research using 1990 data).

314. See William T. Bogart & William C. Ferry, *Employment Centres in Greater Cleveland: Evidence of Evolution in a Formerly Monocentric City*, 36 *URB. STUD.* 2099 (1999) (presenting evidence that employment in the Cleveland metropolitan area is becoming more dispersed, with new hubs of employment developing in adjacent “edge” cities; developing methodology that can be applied to other metropolitan areas).

highly affluent communities along the region's suburban fringe. The issue posed by this final section of Part II is whether the demographic process that has produced this result also has exerted a significant influence on educational outcomes in the region's public schools.

Prior to the mid-1990s, no uniform data existed which permitted a wide-scale comparison of school districts throughout the metropolitan area. However, in recent years, the Ohio legislature has mandated a system of statewide proficiency tests that are administered annually to fourth, sixth, ninth, and twelfth graders.³¹⁵ Each grade level is tested for proficiency in citizenship, mathematics, reading, writing, and science.³¹⁶ The passage rates in these five areas of study in combination with the five grade levels result in twenty-five separate standards for measuring school district performance. The Ohio Department of Education adds the categories of student attendance and graduation rates for a total of twenty-seven standards. Based on this data, Ohio ranks all 607 public school systems under four headings according to the number of standards met: "effective" for 26–27; "continuous improvement" for 14–25; "academic watch" for 9–13; and "academic emergency" for 0–8.³¹⁷ These rankings, at least for schools in the seven-county MSA, are reprinted annually in the *Cleveland Plain Dealer*.³¹⁸

During the 1998–99 school year, the Cleveland public schools were the only school system in the state to fail all twenty-seven standards.³¹⁹ However, a conscientious parent trying to relocate into a quality school system in the Cleveland metropolitan area would have plenty of other communities to avoid. Of the ninety-six districts in the seven-county region, eleven were classified as "academic emergency" and another thirteen were placed on "academic watch."³²⁰ (The 1998–99 performances of the public school systems in the seven-county MSA are displayed in Map 3.) During this period, 44.5% of all students in the seven-county region were enrolled in one of twenty-four

315. OHIO REV. CODE ANN. §§ 3301.0710–.0711 (West 1999) (statutes pertaining to proficiency tests); OHIO ADMIN. CODE §§ 3301-13-01 to -13-10 (West 2000) (administrative regulations governing proficiency tests).

316. OHIO DEPARTMENT OF EDUCATION, 2001 ANNUAL REPORT ON EDUCATIONAL PROGRESS IN OHIO 3 (2001), at <http://www.ode.state.oh.us/reportcard/2001StateReportCard.pdf> (last visited Jan. 1, 2002).

317. *See id.*

318. *See, e.g.,* Janet Tebben & Mark Vosburgh, *Cleveland Schools Score Lowest in State*, *PLAIN DEALER* (Cleveland), Dec. 23, 1999, at A1 (detailing plight of Cleveland and listing results for all schools in the seven-county MSA).

319. *See id.* For reasons pertaining to data available at the time this article was being researched, the author relied on 1998 as the benchmark year for the purposes of discussing educational proficiency. The ranking data relied on by the author was obtained from the Web site of the Ohio Department of Education. A copy of this data, which is no longer readily accessible from the ODE Web site, is on file with N.Y.U. Review of Law & Social Change.

320. OHIO DEPARTMENT OF EDUCATION, 2000 LOCAL REPORT CARD DISTRICT RATINGS (Feb. 28, 2000), at <http://www.ode.state.oh.us/reportcard/ratings/2000/CountyDist.pdf> (last visited Dec. 22, 2001) [hereinafter ODE 2000 REPORT CARD].

underperforming schools districts. (See Table 8.) Moreover, a weighted average based on total district enrollment and median 1998 income tax returns³²¹ reveals that the state's four categories move in lockstep with the relative socioeconomics of the district. Map 4 compares school performance and corresponding socioeconomic data.

In 1998–99, thirteen districts in Greater Cleveland were classified as “effective” systems. Although they represented only 7.8% of total student enrollment, they essentially set the regional benchmark for academic performance. Yet, as Map 4 vividly demonstrates, the spatial distribution of school district performance in the seven-county MSA is nearly identical to the spatial distribution of personal median income. Consistent with the filtering process, the four Cuyahoga County suburban districts classified as “academic

**Table 8: School Performance, Enrollment,
Median Income in Seven-County MSA**

<i>1998–99 Category</i>	<i>Number of Districts</i>	<i>Total Enrollment</i>	<i>Percent of Total</i>	<i>Weighted Avg. of Median 1998 Income Tax Return</i>
Academic Emergency	11	154,619	35.9%	\$23,061
Academic Watch	13	37,204	8.6%	\$31,614
Continuous Improvement	59	205,700	47.7%	\$36,106
Effective	13	33,640	7.8%	\$44,396
Totals:	96	431,163	100.0%	\$31,687

Source: Derived from Ohio Dep't of Educ. and Ohio Dep't of Taxation data.

emergency” also share a border with the city of Cleveland.³²² Of the four Cuyahoga County suburban districts placed on academic watch, three share a border with Cleveland,³²³ while the fourth shares a border with an academic emergency suburban district.³²⁴ Thus, in 1998–99, the worst performing school districts comprised one contiguous land mass. In contrast, seven of the ten effective districts in Cuyahoga County are situated along its outer perimeter.³²⁵

During the last fifteen years, districts that have experienced a significant

321. See Table 8. Note that these income tax returns are not aggregated for households or families.

322. These school districts are East Cleveland, Maple Heights, Warrensville Heights-North Randall, and Euclid. They can be located on the east and southeastern perimeter of Cleveland on Map 2.

323. Cleveland Heights-University Heights, Garfield Heights, and Brooklyn school districts.

324. Bedford City school district, sharing a border with Maple Heights.

325. The seven districts bordering adjacent counties are Bay Village, Westlake, Olmsted Falls City, Brecksville-Broadview Heights, Orange, Solon, and Chagrin Falls Exempt Village. The three remaining districts of Cuyahoga Heights, Beachwood, and Independence all enjoy large commercial tax bases, thus ranking first, second, and sixth, respectively, in the county for 1998–99 per pupil expenditures. See Appendix C.

increase in family affluence have tended to be districts that have excelled on the state standards. For example, from 1986 to 1998, the range in growth in average federal adjusted gross income (AGI) for the ten effective districts in Cuyahoga County was 59% to 135%, representing average AGIs of between \$43,289 and \$173,269 respectively.³²⁶ In contrast, during this same twelve-year period, growth in average federal AGI was much more modest in the five districts in academic emergency, with a range from 27% to 46% and underlying incomes between \$24,665 and \$33,090.³²⁷ Thus, in terms of both income growth and income amount, there is *no overlap whatsoever* between effective school districts and districts in academic emergency.

Finally, it is important to separate the interrelated issues of race and class. In 1998–99, all the academic emergency districts in Cuyahoga County also had substantial minority populations ranging from 51% to 100%. Yet, it should also be noted that some districts with relatively large minority populations fare quite well, while other virtually all-white districts perform poorly. The major factor distinguishing these districts is family income. Table 9 compares districts with similar racial compositions. Map 5 presents two maps of Cuyahoga County that contrast levels of white enrollment with academic performance. Assuming that race was the dominant variable in explaining school performance, we would expect to see similar academic performances in the nearly all-white suburbs in southern and western Cuyahoga County. Yet, as Map 5 reveals, in districts with white enrollment in excess of 90%, the number of standards met ranged from 12 (academic watch) to 27 (effective).

Although socioeconomics may be a better predictor of educational outcomes, the Cuyahoga County data also presents strong evidence that a combination of both racial and socioeconomic isolation can be particularly devastating. The three poorest districts in Cuyahoga County—Cleveland, East Cleveland, and Warrensville Heights—are all communities with “hyper-segregated” housing patterns³²⁸ and corresponding school enrollments between

326. The time period and the reliance on average (rather than median) income were chosen solely because of data available. The data for federal AGI for school districts in Cuyahoga County was obtained from the Ohio Department of Taxation, http://www.state.oh.us/tax/publications_tds_school.html (last visited Jan. 6, 2002). Data on income, race, and enrollment for Cuyahoga County public schools is collected in Appendix C. Median income is a preferable summary statistic because it is not affected by extreme concentrations of wealth or poverty that may skew the average income. However, the primary limitation of median income is it masks the homogeneity or heterogeneity of income within a given district.

327. See Appendix C.

328. See *supra* text accompanying notes 310–13 for a discussion of hypersegregation in Cleveland. East Cleveland and Warrensville Heights undoubtedly were included under this rubric as they both border the city of Cleveland and had 1990 minority populations of 94.6% and 91.5% respectively. See U.S. Census Bureau, 1990 Census, available at <http://www.oseda.missouri.edu/mscdc/census/us/trend/places/S39OHP/390900> (last visited Dec. 12, 2001); see also KEATING, *supra* note 49, at 20 (using map to depict high concentrations of black population in Cuyahoga County).

Table 9: Suburban School Districts with Similar Racial Compositions

<i>District</i>	<i>Standards Passed</i>	<i>1998–99 Status</i>	<i>1998 Median Income</i>	<i>% White</i>	<i>% Black</i>	<i>% Other</i>
More than 50% minority						
Euclid	8	Academic Emergency	\$28,481	49.0%	48.9%	2.1%
Shaker Heights	17	Cont. Improvement	\$44,215	42.3%	51.2%	6.6%
Approximately 20% minority						
Garfield Heights	9	Academic Watch	\$28,486	82.8%	14.0%	3.2%
Orange	26	Effective	\$57,928	79.1%	12.7%	8.2%
Predominantly white						
Brooklyn	12	Academic Watch	\$28,136	93.0%	1.5%	5.5%
Brecksville-Broadview Heights	27	Effective	\$43,758	95.9%	0.3%	3.8%

Sources: Derived from Ohio Dep't of Educ. and Ohio Dep't of Taxation data.

80.1% and 100% minority.³²⁹ For the 1998–99 school year, all three districts were classified as “academic emergency,” satisfying between zero and seven of the state’s twenty-seven quality standards. These districts also make up approximately 42% of the total public school enrollment in Cuyahoga County.³³⁰ In short, the racial and socioeconomic isolation of students in the Cleveland metropolitan area represents a policy failure of epic proportions.

Perhaps the proper way to end this critical case study of Cleveland is to pose another thought experiment: Under Ohio’s 0 to 27 scale, what level of educational performance would be necessary for a typical middle-class parent to feel comfortable purchasing a home in a particular district and sending their child to the local public schools? Although individual preferences will no doubt lead to varying answers on this question, it is probably safe to assume that most parents would be inclined toward a district that is safely in the continuous improvement range. Yet, insofar as the region’s most coveted districts are located along the suburban fringe, our intuitive inquiry predicts that middle-class families living in the Cleveland metropolitan area are unlikely to repatriate the urban core. In short, the problem of educational decline in metropolitan Cleveland is likely to get worse. Alternatives for improving the educational outcomes for the families left behind are the subject of Part III.

329. As of the 1998 school year, both East Cleveland and Warrensville Heights school systems had minority enrollments of 100%. See Appendix C.

330. Total 1998–99 public school enrollment in Cuyahoga County was 201,557. The combined enrollment for Cleveland, East Cleveland, and Warrensville Heights was 85,607. These figures are derived from Appendix C.

III.
IMPLICATIONS OF THE CRITICAL CASE STUDY:
WHERE DO WE GO FROM HERE?

Thus far this article has documented that communities in the seven-county Cleveland MSA gradually have become more economically stratified over time, with the more affluent families gravitating toward the suburban periphery. Moreover, it has geographically illustrated the strong correlation between student performance and general socioeconomic characteristics of the families that reside in each school district. However, from an educational reform perspective, the most important question to address is whether a more heterogenous student population likely will result in a significant positive effect on the academic performance and "life chances"³³¹ of students who otherwise would be confined to the region's most distressed and underperforming schools. Based on the available data, the answer appears to be yes.

This final part argues that a comprehensive strategy of class-based integration offers the best method for achieving large-scale, meaningful improvements in student performance. Moreover, it suggests that with the appropriate leadership, such an approach offers an attractive and politically viable solution to a long-term systemic problem that a majority of voters ultimately finds unacceptable. Part III.A examines evidence from other parts of the country where racial and socioeconomic integration has been implemented. Part III.B considers the legal, political, and theoretical issues that any solution must address, including racial tipping and equal protection. Finally, Part III.C offers two preliminary proposals: (1) a regional zoning authority that shares power with local officials; and (2) a limited open enrollment requirement for high-performing suburban school districts.

A. Assessing the Evidence on Racial and Socioeconomic Integration

This section looks at two examples where comprehensive racial and socioeconomic integration has been achieved over a sustained period of time. The first example, which discusses the Gautreaux program in metropolitan Chicago, resulted from judicial intervention based on a claim of unlawful housing discrimination. The second example, which examines the single district approach used in Wake County, North Carolina, resulted from the political activism of local citizens during the early 1970s.

331. Researchers have frequently used this phrase to articulate the most important benefits of racial and socioeconomic integration. See *supra* note 17.

1. Judicial Intervention: The Gautreaux Program in Chicago

In 1976, the Supreme Court upheld a controversial consent decree in *Hills v. Gautreaux*³³² that included a metropolitan-wide housing program as a remedy for past acts of racial discrimination by the Chicago housing authority. Quite by accident, this program has become the focus for one of the most important and longest running social science projects on the effect of racial and socioeconomic integration on educational outcomes.³³³ In many ways, the structure of the Gautreaux program made it ideal for assessing the independent effect that a middle-class environment potentially has on poor minority children. For example, participants were all poor minority residents of Chicago public housing who were given Section 8 housing certificates and relocated into private apartments in other neighborhoods in Chicago or the mostly-white suburbs.³³⁴ Although program participants in principle were given a choice as to where they would move, researchers observed that “in actual practice they move where the program happens to have housing openings at the time. These openings are either in the city or the suburbs, and allocations tend to approximate a random selection. As a result this program resembles a natural experiment.”³³⁵

Interviews with participants during the initial stages of the program suggested that better housing, favorable rent subsidies, and safety were the most important reasons for relocating out of the Chicago projects.³³⁶ Access to better schools was a relatively low priority, mentioned by only 6% of respondents.³³⁷

332. 425 U.S. 284 (1976).

333. The Gautreaux program has spawned at least three studies that focus directly on how relocation from the inner city to the suburbs affected educational outcomes for children of participants. See Rubinowitz & Rosenbaum, *supra* note 8, at 127–72; Julie E. Kaufman & James E. Rosenbaum, *The Education and Employment of Low-Income Black Youth in White Suburbs* (Ctr. for Urb. Aff. & Pol’y Res., Working Paper No. 91-20, 1991); JAMES E. ROSENBAUM ET AL., *LOW-INCOME BLACK CHILDREN IN WHITE SUBURBAN SCHOOLS* (1986).

334. See KAUFMAN & ROSENBAUM, *supra* note 333, at 2.

335. *Id.* The presence of a city control group undercuts the obvious criticism that any subsequent success attributed to the suburban relocations was in fact a product of self-selection. Although families in both groups were prescreened for family size, housekeeping habits, and credit history, this process ultimately disqualified approximately 27% of applicants. *Id.* at 7–8. Kaufman and Rosenbaum posit that participants are representative of “over half of public housing residents” in Chicago, and that, in general, the Gautreaux families were not a “highly creamed” sample. *Id.* at 8. At least one study has expressed skepticism over whether Gautreaux’s city and suburbs groups were sufficiently random. See Jens Ludwig et al., *Urban Poverty and Educational Outcomes*, in BROOKINGS-WHARTON PAPERS ON URBAN AFFAIRS 2001 147, 148 (William G. Gale & Janet Rothenberg Pack eds., 2001) (commenting that “because Gautreaux was not a true experiment, there necessarily remains some question about the randomness of the neighborhood assignments”). Yet that same study focused on a similar relocation program in metropolitan Baltimore where the assignments between the city and suburbs were, by design, randomized for the benefit of social science research. See *id.* at 149. Consistent with the earlier findings in Gautreaux, researchers found substantial increases in test scores among students relocating to the suburbs vis-à-vis participants who only relocated within the city. See *id.* at 183–85.

336. See RUBINOWITZ & ROSENBAUM, *supra* note 8, at 127.

337. See *id.*

However, early studies of the Gautreaux families documented the significant challenges created by the more rigorous suburban schools, which required many students to attend remedial classes, repeat one or more grades, or receive extensive individualized tutoring.³³⁸ Initially, students in the suburban group also exhibited little evidence of an upward shift in occupational or educational aspirations that could be attributed to their new environments.³³⁹

Because much of the Gautreaux research was designed to test the “permanent disadvantage hypothesis,” the lack of any early evidence of improvements in school performance was not necessarily surprising. According to this theory, poor minority youth are poorly equipped to adapt to the different standards of suburbia; in turn, this cultural disparity adversely affects long-term educational and employment prospects.³⁴⁰ Yet contrary to these predictions, longitudinal studies of the Gautreaux children eventually discovered that the suburban students were moving ahead of their counterparts in the city control group in several important ways. Researchers summarized their findings as follows:

Compared with city movers, suburban movers were more likely to be (1) in high school, (2) in a college track, (3) in a four-year college, (4) in a job, (5) in a job with benefits, and (6) not outside of the education and employment systems. In addition, the grades of the city youth and suburban youth did not differ significantly. Given the higher educational standards of suburban schools, as evidenced by their higher ACT scores and eleventh-grade reading scores and much higher graduation rates than the city schools, the suburban children’s grades may have been worth more in terms of achievement.³⁴¹

A summary of these educational and employment outcomes, based on interviews eight to thirteen years after relocation, is set forth in Table 7. With the exception of grades³⁴² and job skill, each of these disparities was found to be statistically significant.³⁴³

338. See Rosenbaum et al., *supra* note 333, at 26–31 (discussing extensive anecdotal evidence of higher standards in the suburban schools; noting that some mothers “expressed surprise at the magnitude of differences [between the city and suburban schools], though they expected some differences to exist”).

339. *Id.* at 125–29 (finding “no significant difference between the suburban group and the city control group” in terms of both educational and occupational aspirations).

340. See RUBINOWITZ & ROSENBAUM, *supra* note 8, at 161–62 (discussing hypothesis and ability to test it based on seven years of data).

341. *Id.* at 171.

342. Grades were calculated as a 5 for “mostly C’s” and a 6 for “mostly B’s and C’s,” and so on. *Id.* at 164. The inability to obtain consistent grade data caused researchers to rely on mothers’ accounts of their children’s educational performance. However, after comparing these accounts with transcripts that later became available, Rubinowitz and Rosenbaum reported “a very high correlation” that appeared uniform across the groups. *Id.* at 156 n.6.

343. *Id.* at 163.

Because the Gautreaux youth attended dozens of different schools throughout the Chicago metropolitan area, researchers were unable to assess data on educational achievement tests.³⁴⁴ It is important to note, however, that test scores should not be mistaken as ends in themselves, but as imperfect proxies for academic competence and the ability to adapt to today's more demanding job market. The significance of the Gautreaux research is that the educational and employment outcomes of the youth in the suburban group strongly suggest that racial and socioeconomic integration had a very powerful effect on the trajectory of hundreds of poor, minority students.

As part of a relatively rare group of individuals who actually have lived in both the inner city and middle-class suburbs, the Gautreaux participants were able to articulate fairly concrete ways in which their new environment affected their lives. For example, several mothers stated that the relocation had permitted

**Table 10: Education and Job Outcomes
of Gautreaux Youth, City and Suburban**

<i>Outcome</i>	<i>City</i>	<i>Suburb</i>
Dropped out of school	20%	5%
Grades	5.60	5.61
College track classes	24%	40%
Attend college	21%	54%
Attend four-year college	4%	27%
Employed full-time (if not in college)	41%	75%
Pay under \$3.50 per hour	43%	9%
Pay over \$6.50 per hour	5%	21%
Job benefits	23%	55%
Skilled or semiskilled jobs (versus unskilled)	36%	55%
Either in school or working	74%	90%

Source: LEONARD S. RUBINOWITZ & JAMES E. ROSENBAUM, *CROSSING THE CLASS AND COLOR LINES: FROM PUBLIC HOUSING TO WHITE SUBURBIA* 163 (2000)

them to escape the negative mindset of the Chicago projects, including gangs and youth violence, and thus improved their children's motivation and desire to succeed.³⁴⁵ Another observation was the generally higher level of

344. See *id.* at 156 n.6 (explaining infeasibility due to logistical difficulties and the different tests administered by the various districts). However, researchers who conducted a similar study on a city-suburban relocation program in metropolitan Baltimore, which was fully randomized and included a city control group, found that "the offer to relocate families in public housing from high- to low-poverty neighborhoods improves standardized achievement test scores among young children." Ludwig et al., *supra* note 335, at 185.

345. See RUBINOWITZ & ROSENBAUM, *supra* note 8, at 168. As low-income and

expectations prevalent among teachers, often shown by teachers' willingness to provide struggling students with extra help after school.³⁴⁶ Suburban schools also were credited with providing the Gautreaux students with strong college counseling, something that was never mentioned by any of the participants in the city control group.³⁴⁷ Finally, both mothers and youth discussed the beneficial effects of positive role models and peer pressure. As one suburban student commented, "I saw that most of the kids in my classes wanted to go to college, and their older brothers and sisters were in college, so I thought I could do that too."³⁴⁸

The findings of the Gautreaux project are consistent with earlier research which suggests that the primary benefits of socioeconomic integration are achieved through an expanded range of peer interactions.³⁴⁹ In the final chapter of their book, the authors of the most recent and comprehensive study of Gautreaux program made the following observation: "While the studies discussed in this book showed that families' experiences were very complex, they supported the basic premise of the concept of 'geography of opportunity'—people who move to better areas can improve their opportunities and attainments."³⁵⁰

2. Political Intervention: Metropolitan-Wide Busing in Raleigh, N.C.

During the early 1970s, when much of the South was besieged with school desegregation litigation and the economic boom of the famed Research Triangle was in its infancy, business leaders in Raleigh, North Carolina began to take note of a disturbing trend. The city school district was rapidly losing its white, middle-class students to the county school system, which serviced the surrounding suburbs and much of the newly annexed development on the city's fringe.³⁵¹ Apprehensive that a continuation of this trend would undermine

hypersegregated places, housing projects are the ideal breeding ground for what commentators have termed an "oppositional culture," which denigrates attempts by blacks to improve their lot in life through work and education, as these attributes are commonly associated with white Americans. See generally Signithia Fordham & John U. Ogbu, *Black Students' School Success: Coping with the 'Burden of Acting White,'* 18 URB. REV. 176, 176-82 (1986); see also Ryan, *supra* note 8, at 287-89 (discussing relationship between "oppositional black culture" and other evidence suggesting that peer influence has a strong role in educational motivation).

346. RUBINOWITZ & ROSENBAUM, *supra* note 8, at 169.

347. *Id.* at 169-70.

348. *Id.* at 170.

349. See, e.g., Ryan, *supra* note 8, at 287 n.167 (citing to "a well-developed body of research that indicates that achievement levels depend not only on a student's own socioeconomic status but also on the status of his or her peers"); James S. Liebman, *Voice, Not Choice*, 101 YALE L. J. 259, 293 (1991) (reporting that "a fourth to a third of the effect of socioeconomic status [on educational outcomes] comes not from the wealth and educational attainments of Jane's and Johnny's own parents but from the wealth and attainments of their classmates' parents").

350. RUBINOWITZ & ROSENBAUM, *supra* note 8, at 189.

351. See Steve Berg, *A Great Divide, Schools Shape Fates of Raleigh and Durham*, STAR TRIB. (Minneapolis-St. Paul), Mar. 19, 1996, available at 1996 WL 69006010 (part of series by

prosperous older neighborhoods and eventually produce widespread white flight from the city, civic leaders proposed a merger between the city and county school systems.³⁵² Popular opinion generally was opposed to the idea, and a merger referendum was trounced by Wake County voters by a two-to-one margin.³⁵³ Nevertheless, civic leaders remained undeterred and pushed the merger through the North Carolina legislature in 1975.³⁵⁴ The following year, the city and county systems were consolidated into the Wake County Public School System (“WCPSS”).³⁵⁵

Despite the absence of a federal court order, the WCPSS quickly demonstrated a commitment to school integration by creating an elaborate system of magnet schools and implementing a mandatory busing program to achieve and maintain racial balance. Because the racial composition of the district was approximately 30% minority at the time of consolidation, the WCPSS adopted a target range of 15% to 45% minority enrollment for all schools.³⁵⁶

Although conventional wisdom might have predicted that the Wake County schools would be shunned by affluent white families, quite the opposite has occurred. During its twenty-five year history, the district has experienced *reverse* white flight, with total white enrollment climbing from 39,624 in 1976 to 61,750 in 2000 (an increase of 55.8%).³⁵⁷ During this period, the racial composition of the WCPSS has remained remarkably stable, with the current enrollment consisting of 63.2% white, 26.2% black, and 10.6% other minority students.³⁵⁸ In addition, the district is socioeconomically diverse, with approximately 25% of all elementary school students eligible for the federally

Minneapolis-St.Paul newspaper examining how other regions of the country have dealt with racial and socioeconomic integration).

352. *Id.* (reporting that much of the new growth during this period was in outlying regions that were “whiter and wealthier, with an influx of new families, many of them from the North”).

353. *Id.*

354. *Id.* It is perhaps noteworthy that one of the civic leaders that campaigned for the merger was Frank Daniels, Jr., who was at that time the publisher of the *News & Observer*, Raleigh’s daily newspaper. *Id.*

355. See WAKE COUNTY PUB. SCH. SYS., WCPSS OVERVIEW, at <http://www.wcpss.net/overview.html> (last visited Dec. 23, 2001) [hereinafter WCPSS OVERVIEW].

356. See Todd Silberman, *Two Schools Are a Study in Balance, High Minority Enrollments Met Differently on Raleigh Campuses*, NEWS & OBSERVER (Raleigh), Apr. 7, 1997, available at 1997 WL 7830118 (reporting that school board policy requires that “the minority enrollments of all schools . . . fall between 15 percent to 45 percent”).

357. The 1976 figure was obtained from Orfield, *supra* note 9, at 847 tbl. 6. The 2000 data was obtained from the Wake County Public School System. WAKE COUNTY PUB. SCH. SYS., INTRODUCTION TO THE 2000–2001 SCHOOL PROFILES ii (2001), at http://www.wcpss.net/evaluation-research/index_reports/school_profiles_00_01.html (last visited Dec. 23, 2001) [hereinafter 2000–2001 SCHOOL PROFILES]; see also Gary Orfield, *Unexpected Costs and Uncertain Gains of Dismantling Desegregation*, in DISMANTLING DESEGREGATION, *supra* note 8, at 73, 96 (discussing phenomenon of reverse white flight in metropolitan Raleigh).

358. 2000–2001 SCHOOL PROFILES, *supra* note 357, at ii.

subsidized lunch program.³⁵⁹ In order to avoid the charge of illegal racial discrimination, the WCPSS has shifted the focus of its mandatory busing program to the proportion of students in each school that are eligible for the subsidized lunch program.³⁶⁰ Nevertheless, because race closely tracks socio-economic status in metropolitan Raleigh, the new assignment method continues to result in substantial racial integration.³⁶¹

While the WCPSS is the second largest school system in North Carolina and the thirty-third largest in the nation,³⁶² it offers a far more optimistic vision of academic performance than most urban districts. For example, in 2000, the mean SAT score for a Wake County student was 1070, which exceeded comparable state and national scores by 72 and 42 points respectively.³⁶³ Moreover, 77.9% of the eligible student body took the test, compared to 64% throughout the state and 44% nationally.³⁶⁴ When the data is disaggregated, the average SAT score for black students in Wake County was 886, which exceeded state and national levels by 51 and 26 points respectively.³⁶⁵ Almost two-thirds of all Wake County graduates go on to attend four-year colleges,³⁶⁶ while the dropout rate for WCPSS students is significantly lower than comparable figures from other urban districts throughout the state.³⁶⁷

359. WAKE COUNTY PUB. SCH. SYS., GAPS IN ACADEMIC ACHIEVEMENT: WCPSS STATUS 2000-01, Rep. No. 01.24, II-5 (Mar. 2001), at http://www.wcpss.net/evaluation-research/index_reports/2001/gaps_in_academic_achievement_wcpss_status_2000_2001.pdf [hereinafter GAPS IN ACADEMIC ACHIEVEMENT].

360. See Robert C. Johnston, *N.C. District to Integrate by Income*, EDUC. WK., Apr. 26, 2000, available at <http://www.edweek.org> (reporting that initiative was prompted by recent rulings in the U.S. Court of Appeals for the Fourth Circuit).

361. See GAPS IN ACADEMIC ACHIEVEMENT, *supra* note 359, at i, II-5 (observing that Black and Hispanic populations are more likely to be low income; using chart to depict percentage of students by ethnicity who qualified for free or reduced-price lunches).

362. WCPSS OVERVIEW, *supra* note 355.

363. NORTH CAROLINA STATE BOARD OF EDUCATION, THE NORTH CAROLINA 2000 SCHOLASTIC ASSESSMENT TEST (SAT) REPORT 19 tbl. 1, 30 tbl. 7 (Aug. 2000), available at <http://www.ncpublicschools.org/accountability/Reporting/sat/2000/sat2000.PDF>.

364. *Id.* at 29 tbl. 6, 33 tbl. 8. The introduction to the North Carolina 2000 SAT Report cautions against making interstate comparisons of SAT scores because the level of administration can vary greatly according to the prevailing college entrance exams relied on by in-state colleges and universities. However, the report also observed, "The most important factor in interpreting the SAT scores is the proportion of eligible students taking the exam—the participation rate. In general the higher the percentage of students taking the test, the lower will be the average score." *Id.* at i. Because the WCPSS has higher SAT scores *and* higher participation rates than the state and national figures, its performance is all the more impressive.

365. See Bill McNeal, *Gaining in the Schools*, TOGETHER, NEWS & OBSERVER (Raleigh), Mar. 1, 2001, available at 2001 WL 3454371 (editorial by WCPSS superintendent discussing the above-average performance by black students in system).

366. See Tim Simmons, *Taking Different Roads*, WAKE CLINGS TENACIOUSLY TO DIVERSITY, BUT THE PRICE IS FANNING FRUSTRATIONS, NEWS & OBSERVER (Raleigh), Feb. 20, 2001, available at 2001 WL 3453168 (discussing district's track record with integration).

367. See WAKE COUNTY PUB. SCH. SYS., ANNUAL PROGRESS REPORT ON STUDENTS WHO DROP OUT, Rep. No. 01.23, 12 (Feb. 2001), available at http://www.wcpss.net/evaluation-research/index_reports/2001/1999_2000_annual_progress_report_on_students_who_drop_out.pdf

The strength of the Wake County schools is widely credited as a primary reason for the success of the regional economy.³⁶⁸ For example, in 1995, the Greater Raleigh Chamber of Commerce took the unusual step of passing a resolution that endorsed the district's continued commitment to racially balanced schools.³⁶⁹ The text of the resolution praised the foresight of civic leaders who "recognized that a strong and prosperous inner-city with a quality school system was a vital element in the future economic growth and prosperity of the entire country," and urged Greater Raleigh to "steadfastly maintain its commitment to racially balanced public schools."³⁷⁰ Fending off frequent calls for neighborhood schools, one school board member commented that "racially and socioeconomically balanced schools [have] proven to be effective education and economic policy for this county."³⁷¹ Similarly, another school board member has defended the district's pro-integration policy as "basic to the excellence and lively economic life of Wake County."³⁷²

Whether Wake County's twenty-five year commitment to racial and socio-economic integration is substantially responsible for either creating or sustaining the economic vitality of a major portion of the Research Triangle is an important research question that warrants serious investigation.³⁷³ Yet the divergent fate of another city within the Triangle region, Durham, strongly suggests that the reputation and functioning of the public schools can play a major role.

During the same time that Wake County officials were using political means to bring about a consolidated school district, Durham County was embroiled in desegregation litigation over the maintenance of two separate schools systems. Over a period of several decades, new communities that were annexed into the city limits of Durham retained the right to remain in the county school system, since the city system imposed a higher tax burden.³⁷⁴ As a result, by 1975, only about one-half of the geographic area of the city of Durham was within the

(using table to present data on dropout rates in urban districts in North Carolina; noting significantly lower rate for WCPSS during the 1997–2000 time period).

368. See, e.g., Berg, *supra* note 351, at 1996 WL 69006010 ("Schools are given credit for much of Raleigh's gains over the past three decades.").

369. See Todd Silberman, *Wake Busing Challenged*, NEWS & OBSERVER (Raleigh), Oct. 4, 1995, available at 1995 WL 2687833.

370. Greater Raleigh Chamber of Commerce, Resolution Concerning the Wake County Public School System (May 24, 1995), quoted in Gary Orfield, *Segregated Housing and School Resegregation*, in DISMANTLING DESEGREGATION, *supra* note 8, at 291, 316–17.

371. See Todd Silberman, *Schools Losing Racial Balance*, NEWS & OBSERVER (RALEIGH), Mar. 15, 1997, available at 1997 WL 7826940 (quoting school board member Bill Fletcher).

372. *Id.* (quoting school board member Betty Broder).

373. Perhaps one important question to include in such an inquiry is whether improved race relations by virtue of the integrated status of the schools has been a factor in the relocation decisions for residents who recently emigrated from old industrial cities where economic and racial polarization is often severe.

374. See *Wheeler v. Durham County Bd. of Educ.*, 521 F.2d 1136, 1137–38 & n.5 (4th Cir. 1975) (recounting history and explaining that higher tax burden in City system limited its growth despite annexations).

Durham city school district.³⁷⁵ In 1974, a federal district court rejected the plaintiffs' requests for either a merger of the city and county school systems, or alternatively, an adjustment making the city school district coterminous with the Durham city limits.³⁷⁶ While the county district had a black enrollment of approximately 25%,³⁷⁷ including sections of Durham that were developed as low-income public housing,³⁷⁸ the city district was already 71% minority and was rapidly losing both its white and black middle class.³⁷⁹ At the same time, annual achievement scores in the Durham city schools began a downward slide.³⁸⁰ Despite the regional economic boom during the 1980s, the urban core of Durham continued to deteriorate, with adjacent Wake County experiencing the lion's share of the housing and commercial development.³⁸¹

Realizing that the wide disparity between the city and suburban schools had become a serious obstacle to economic growth, in 1992 business and civic leaders in Durham brokered a merger between the city and county districts that included school redistricting and a magnet program designed to mix the two student bodies.³⁸² Although detractors initially had feared that city students would drag down the high academic achievement of their suburban peers, statistics compiled five years after the consolidation revealed that exactly the opposite had occurred. In 1992–93, the SAT scores for the top 10% of Durham students trailed the national average for their peer group by twelve points; in 1995–96, this same group exceeded the national score by twenty-five points.³⁸³

375. *See id.* at 1138 n.5.

376. *See Wheeler v. Durham County Bd. of Educ.*, 379 F. Supp. 1352, 1375 (M.D.N.C. 1974), *aff'd in part, rev'd in part on other grounds*, 521 F.2d 1136 (4th Cir. 1975). The plaintiffs did not appeal the denial of interdistrict relief. *See Wheeler*, 521 F.2d at 1138.

377. *Wheeler*, 379 F. Supp. at 1363.

378. *Wheeler*, 521 F.2d at 1138.

379. *Wheeler*, 379 F. Supp. at 1360–61.

380. *See id.* at 1361 (noting that the educational program in "the City schools has also suffered [as a result of the outmigration]. According to the city superintendent, the annual achievement test scores have deteriorated as has the educational program generally.")

381. *See Berg, supra* note 351, at 1996 WL 69006010 (discussing divergent economic fates of Durham and Raleigh and reporting that "[c]ivic leaders from both cities have settled on an explanation: schools").

382. *See* Nancy M. Jirtle, *Durham School of the Arts: A Journey from 'Hole' to Whole*, 81 PHI DELTA KAPPAN 693, 693–94 (2000) (attributing "pragmatic" support of business and civic leaders to a desire to spur more economic growth); Ned Glascock & Kelly Thompson, *Durham Integration Plan Faces Mixed Opinions*, NEWS & OBSERVER (Raleigh), Aug. 20, 1995, available at 1995 WL 2682340 (reporting that county Board of Commissioners had become "frustrated over wide disparities in the county's two systems," thus voting for merger; noting that earlier mergers in Wake and Nash counties had resulted in "stronger schools that prepared them to capitalize on the state's tremendous economic growth"); Tim Simmons & Todd Silberman, *Is It Time to Stop Busing? Balancing Act Only Gets More Difficult*, NEWS & OBSERVER (Raleigh), May 18, 1997, available at 1997 WL 7836089 (reporting that "as the Triangle grew and enrollment boomed in neighboring Wake County, Durham found itself under increasing pressure to address the inequities between the city and county schools," which culminated in the 1992 merger).

383. Michele Kurtz & Kelly Thompson Cochran, *The Report Card Improves*, NEWS & OBSERVER (Raleigh), July 6, 1997, available at 1997 WL 7843312 (reporting on numerous

For the district as a whole, SAT scores rose seventeen points during the same period.³⁸⁴ Scores on the state competency tests also have shown a significant upward trend following the merger.³⁸⁵

Although the academic progress made by Wake and Durham County school districts is noteworthy, the larger significance of the city-suburban mergers is that a pro-integration stance can be a politically viable position for elected officials presiding over large metropolitan school districts.³⁸⁶ In 1974, the Supreme Court's decision in *Milliken I* essentially eliminated the ability of the federal courts to rescue failing, racially-isolated schools through remedies that involve middle-class white students beyond the district's geographic boundaries.³⁸⁷ Now, more than twenty-five years later, districts in the heart of the Old South voluntarily have adopted and maintained such policies as a pragmatic method of attracting new residents and spurring economic growth.

Yet before consolidation of city and suburban school districts is proffered as a solution to failing inner city schools in places like Cleveland, it is important to acknowledge certain trends in the Research Triangle area that may undermine the region's long-term commitment to integration. First, housing patterns in rapidly growing Wake County frequently are divided along the lines of race and class. While lower- and middle-class black families remain concentrated in

statistics compiled by the newspaper showing steady upward improvement in academic performance following the merger).

384. *Id.* (noting seventeen point gain "even after accounting for a change in how the test is scored").

385. *See id.* (reporting that "[o]verall, scores on state end-of-grade tests have risen steadily, with the most notable gains coming this spring as an unprecedented percentage of eighth-graders—76 percent in reading and 69.6 percent in math—passed the state competency test"). This upward trend has continued. *See* Press Release, Durham Public Schools Office of Public Affairs, End-of-Grade Test Scores Increase for Fourth Consecutive Year (June 11, 2001) (discussing significant test score improvements at virtually all grade levels) (on file with author).

386. Several newspaper articles document the contentiousness of this issue over the last several years, yet many candidates and board members have been resolute in their pro-integration stance. *See, e.g.*, T. Keung Hui, *School Board Candidates Split on Busing*, NEWS & OBSERVER (Raleigh), Sept. 25, 1999, available at 1999 WL 2769834 (describing opposing views of candidates on issue of busing and noting that board member who was vacating her seat after eight years believed that pro-integration policy should continue); Silberman, *supra* note 369, at 1995 WL 2687833 (noting that "county's public school and community leaders have been resolute in the belief that racial balance in schools is essential to a healthy school system and a healthy community," but also reporting on several school board challengers who think the policy should be altered or abandoned); Todd Silberman, *Avoid Cuts in Busing, Schools Told*, NEWS & OBSERVER (Raleigh), Oct. 18, 1994, available at 1994 WL 6608567 (commenting that "for nearly 20 years Wake County school leaders have defended desegregation as a central pillar of the school system," but noting that a small number of board members have considered backing away from goal of systemwide desegregation); Todd Silberman, *School Campaigns Give Busing Policy High Profile*, NEWS & OBSERVER (Raleigh), Oct. 1, 1993, available at 1993 WL 5088239 (discussing candidates' positions on issue of busing).

387. *See* 418 U.S. at 745 (ruling that "without an interdistrict violation and interdistrict effect, there is no constitutional wrong calling for an interdistrict remedy"); Orfield, *supra* note 370, at 314 (commenting that after *Milliken I*, "courts could not deal with long-term suburbanization trends by including suburban districts in the desegregation plan").

Raleigh's eastern and southeastern neighborhoods,³⁸⁸ the rapid growth of northern Wake County has been driven primarily by affluent whites.³⁸⁹

As a result of these long-term systemic housing patterns, the maintenance of school integration (socioeconomic or racial) increasingly has relied on long bus rides.³⁹⁰ Because this transportation burden has been disproportionately shifted to Wake County's black neighborhoods,³⁹¹ support for busing has eroded among a constituency that has traditionally been supportive of school integration.³⁹² Within the predominately white suburbs, the large number of families who recently have relocated from northern states have tended to be the most skeptical of Wake County's continued commitment to school integration. One WCPSS principal commented, "Many people who move down here look down their noses at the South and come here with a private-school mentality."³⁹³ As a result, the largely white and affluent suburb of Cary is sometimes referred to as C.A.R.Y. or "containment area for relocated Yankees."³⁹⁴ Segregated housing patterns in the Research Triangle area are on the decline,³⁹⁵ yet it is unlikely that

388. See Simmons, *supra* note 366, at 2001 WL 3453168 (reporting that Wake County's "housing patterns are . . . still rooted in the past. African-American families remain concentrated in Raleigh's eastern and southeastern neighborhoods, even as the school district has grown to comprise more than 97,000 students in 122 schools.").

389. See Kristin Collins, *Board of Education Votes to Buy Land in Northeast Wake County*, NEWS & OBSERVER (Raleigh), Sept. 29, 1999, available at 1999 WL 2770566 (reporting on purchase of land for new schools in "fast-growing northeastern Wake County," where schools are "already overcrowded"); DeMorris Lee, *Candidates Find Growth Means More Work*, NEWS & OBSERVER (Raleigh), May 19, 2000, available at 2000 WL 3928577 (noting that North Raleigh is "Wake County's fastest growing area"); Silberman, *supra* note 386, at 1994 WL 6608567 (discussing low minority enrollment in the northern suburb of Cary "where rapid growth is predominantly among affluent white families"). However, there is some evidence to suggest that racially segregated housing patterns in the Research Triangle area may be slightly on the decline. See *infra* note 394.

390. Editorial, *Toward True Integration*, NEWS & OBSERVER (Raleigh), Oct. 21, 1993, available at 1993 WL 5090809 (observing that "Wake's fastest growing areas are mainly white, and some schools there have only small minority enrollments," thus achieving integration only through "long bus rides").

391. See Simmons, *supra* note 366, at 2001 WL 3453168 (noting that WCPSS does not "advertise that black students are more likely than white students to be bused without a choice, but a look at any school assignment map makes it obvious"); Silberman, *supra* note 369, at 1995 WL 2687833 (reporting that "about 4,000 students are bused from predominantly black neighborhoods—mostly in southeast Raleigh—in order to racially balance schools in North Raleigh and Cary. For every one student in southeast Raleigh who attends a nearby school, three others are sent outside the city's traditionally black neighborhoods.").

392. See Simmons, *supra* note 366, at 2001 WL 3453168 (reporting that "[e]ach new subdivision and remote suburban school means longer rides for many black children—and the calls from black parents for neighborhood schools intensify"); Silberman, *supra* note 371, at 1997 WL 7826940 (quoting black school board member: "My concern is with distance. I don't think the answer is with busing kids from southeast Raleigh to those schools that have low percentages of African-American students.").

393. Berg, *supra* note 351, at 1996 WL 69006010.

394. *Id.*

395. See David Raynor, *Diversity Moves In*, NEWS & OBSERVER (Raleigh), Apr. 8, 2001, available at 2001 WL 3460008 (discussing findings of Brookings Institution study placing

in the near future this trend will permit substantial integration (racial or socioeconomic) through a return to neighborhood schools.³⁹⁶

Another factor that reveals the complexity of the WCPSS is the persistence of an achievement gap between white and black students.³⁹⁷ Although such a performance gap is not unique to WCPSS,³⁹⁸ it necessarily raises legitimate questions on whether Wake County's twenty-five year commitment to integration has been worth the cost. One response to this criticism is to consider the relative size of the performance gap. Research on North Carolina schools has shown that test scores for minority students are consistently worse in racially and socioeconomically isolated school districts.³⁹⁹ Moreover, research conducted within the WCPSS suggests that test scores for low-income children⁴⁰⁰ would likely improve if the district took additional measures to significantly reduce the concentration of poverty in their schools below the 45% threshold.⁴⁰¹

Raleigh-Durham-Chapel Hill region among cities with declining levels of segregation).

396. See EDWARD L. GLAESER & JACOB L. VIGDOR, RACIAL SEGREGATION IN THE 2000 CENSUS: PROMISING NEWS 5 & tbl. 1 (Brookings Inst., Survey Series, 2001) (listing Raleigh-Durham-Chapel Hill area among 100 MSAs with "large, but not overwhelming" drops in racial dissimilarity index; noting that region was one of a handful of MSAs "where land area increased more than 50% between 1990 and 2000").

397. See GAPS IN ACADEMIC ACHIEVEMENT, *supra* note 359, at i-ii & Part III (discussing persistent gap between races at primary and secondary levels).

398. See, e.g., Christopher Jencks & Meredith Phillips, *The Black-White Test Score Gap: Why It Persists and What Can Be Done*, EDUC. WK., Sept. 30, 1998, available at <http://www.edweek.org> (discussing national performance gaps between black and white students).

399. See Susan Ebbs, *Separate And Unequal, Again*, NEWS & OBSERVER (Raleigh), Feb. 18, 2001, available at 2001 WL 3452907 (using "computer analysis of standardized test scores from every public school in the state by race and income level" and finding that "middle-class black students—that is, students who do not qualify for subsidized lunches—are the ones hurt most by resegregation. In district after district, these students score significantly worse in segregated schools than in an integrated setting."); WAKE COUNTY PUB. SCH. SYS., THE EFFECT OF SCHOOL POVERTY CONCENTRATION IN WCPSS, Rep. No. 01.21, 3 (Mar. 2001), at http://www.wcpss.net/evaluation-research/index_reports/2001/poverty_in_wcpss.pdf (last visited Jan. 12, 2001) [hereinafter SCHOOL POVERTY CONCENTRATION] (reporting that "correlations between school poverty and ABCs performance in North Carolina schools in 1999–2000 show that high poverty schools experience greater challenges in sustaining growth shown in earlier years and in determining next steps to ensure student success").

400. Although the WCPSS has concluded that "[t]he strongest predictor of low achievement is income, as measured by eligibility for free or reduced price lunch," WAKE COUNTY PUB. SCH. SYS., PROGRESS TOWARDS THE 95% GOAL: 2000, Rep. No. 01.04, 1 (Oct. 2000), at http://www.wcpss.net/evaluation-research/index_reports/95_percent_goal.pdf (last visited Jan. 12, 2001), the underlying statistics reveal a substantial overlap between low income and minority status, *id.* at 8–9, figs. 12–13, apps. A–D; see also GAPS IN ACADEMIC ACHIEVEMENT, *supra* note 359, at V-3 (discussing finding that schools with high black enrollments also had high concentrations of low-income students, thus "illustrat[ing] the relationship between racial background and income").

401. See SCHOOL POVERTY CONCENTRATION, *supra* note 399, at 7. The report issued the following conclusion:

WCPSS has fewer than 10 schools [out of 122] with poverty concentrations that might be considered 'high' in a national context; i.e., greater than 40% In terms of achievement *growth*, school poverty . . . has a small, statistically significant, negative effect on EOG [end-of-grade] scores in WCPSS, but the magnitude of the effect varies

A second defense for WCPSS's commitment to integration is the symbolic value of a large and prosperous metropolitan area attempting to provide its disadvantaged students with equal access to a high quality education. School and communities leaders in Wake County recently convened a twenty-nine member panel to focus on the underlying cause of the racial achievement gap, including teacher preparation, low expectations, parent involvement, and various other cultural factors.⁴⁰² Yet before this issue could be addressed in a meaningful way, officials and citizens of Wake County had to make a long-term commitment to a heterogenous student body. Although the academic performance of poor and minority students continues to trail behind that of their white, middle-class peers, this should not obscure the fact that Wake County has come much closer to equal opportunity in education than the vast majority of urban school districts.

The important counterfactual question is whether higher levels of racial and socioeconomic segregation, akin to those found in the Cleveland public schools, would exacerbate the test score gap. The answer to this question is an unequivocal yes.⁴⁰³ Compared to places like Cleveland, where dozens of school districts have made the affluent suburbs mere spectators in the education reform debate, Wake County's metropolitan-wide approach has made virtually every citizen a stakeholder in the success of the WCPSS.⁴⁰⁴ In such an environment, we reasonably can expect improvements in the life chances of poor and minority students.

B. Legal and Political Roadmap to School Integration

Thus far, the entirety of this article has laid the foundation for discussing

across grades and subjects. Small differences in school poverty levels (e.g. 25% vs. 30%) are unlikely to have a major impact on students' EOG scores. However, large differences in poverty levels (e.g. 5% vs. 40%) can be expected to have a one or two point negative impact on EOG scale scores. If we consider that just two scale score points can equal one-third to two-thirds of a year's growth in some grade levels and subjects, differences of that magnitude are probably not only statistically significant but educationally significant as well.

Id.

402. See Tim Simmons, *Where Do We Go From Here?*, NEWS & OBSERVER (Raleigh), Feb. 25, 2001, available at 2001 WL 3453955 (quoting former WCPSS superintendent Bob Bridges, who heads the panel, "Our group wants to look at the roots of these gaps and find ways to address the hidden parts of the problem."). In an earlier interview on the low achievement of black males throughout North Carolina, Bridges, who is black, observed, "Many of the boys do not see themselves as achievers anymore. They ask, 'Do I want to be a part of my culture or do I want to be a part of mainstream culture?' They believe they must choose, that they cannot be part of both." Tim Simmons, *A Crisis Out of Hiding*, NEWS & OBSERVER (Raleigh), Nov 21, 1999, available at 1999 WL 29850234.

403. See *supra* note 399 and accompanying text.

404. Cf. Berg, *supra* note 351, at 1996 WL 69006010 (noting that in the 1970s, civic leaders in Raleigh argued, "If everyone had a stake in the city schools . . . Raleigh's core would deteriorate.").

racial and socioeconomic integration as the most promising vehicle for improving the academic performance, and ultimately the life chances, of students consigned to failing urban districts like the Cleveland public schools. After demonstrating the profound effect of demography in shaping educational outcomes in metropolitan Cleveland (and the relatively insignificant role of court-ordered desegregation), it presented substantial empirical evidence that such an approach can be not only effective, but politically viable. This section focuses on the practical and legal issues that need to be addressed in order to implement such a reform.

1. *Limitations on Judicial Intervention*

As a threshold matter, it is important to note that judicial intervention is both unlikely and undesirable. Judicial intervention is unlikely because current equal protection jurisprudence provides federal courts with virtually no opportunity to implement large scale educational reforms that cross district boundaries. In 1974, the Supreme Court's decision in *Milliken I* prohibited district courts from implementing an interdistrict remedy in the absence of an interdistrict violation.⁴⁰⁵ As metropolitan areas have expanded beyond the boundaries of central cities, demographic patterns and exclusionary zoning largely have preserved the segregation that was formerly accomplished by illegal state action. In 1995, *Jenkins III* acknowledged that the lack of a white middle class largely doomed the prospects of significant racial integration. Nevertheless, the *Jenkins III* court ruled that federal courts lack the remedial authority to order comprehensive funding for educational improvements in order to attract white, middle-class students back into the school district.⁴⁰⁶

Although the Supreme Court ruled in *Village of Arlington Heights v. Metropolitan Housing Development Corp.*⁴⁰⁷ that racially motivated exclusionary zoning violated the Equal Protection Clause, this decision left intact the longstanding rule of *Village of Euclid v. Ambler Realty Co.*,⁴⁰⁸ which held that zoning ordinances that preserve the character and property values of a community are a valid exercise of a state's police powers. In reality, the heavy burden of proving discriminatory intent has rendered the Equal Protection Clause a dead letter in matters of zoning. As long as all legislative discourse is focused on property values, perhaps euphemistically, and residential character, exclusionary zoning, for all practical purposes, is constitutionally permissible.⁴⁰⁹

405. See *supra* notes 78, 387 and accompanying text.

406. *Jenkins*, 515 U.S. at 91–94 (holding that the district court's "pursuit of 'desegregative attractiveness' is beyond the scope of its broad remedial authority").

407. 429 U.S. 252 (1977) (holding that developer had standing to challenge zoning ordinance on equal protection grounds but he failed to carry his burden of proof that it was enacted with racially discriminatory intent).

408. 272 U.S. 365 (1926).

409. Although current patterns of residential and school segregation are often attributed to

Aside from the doctrinal limits on judicial intervention, it is doubtful whether courts can be an effective vehicle for implementing complex social reforms.⁴¹⁰ In *Brown v. Board of Educ.*,⁴¹¹ the Supreme Court set forth an inspiring vision of education that continues to have a surprisingly contemporary ring:

[E]ducation is perhaps the most important function of state and local governments It is the very foundation of good citizenship. Today it is the principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.⁴¹²

Brown was followed by decades of litigation that eventually ended de jure segregation. Fifty years later, poor and minority children continue to be disproportionately concentrated in a handful of failing urban districts.⁴¹³

Milliken I essentially overruled the holding of *Brown*, at least as applied to the emerging metropolitan landscape.⁴¹⁴ Yet if we imagine arguing that *Milliken I* came out the other way, it is certainly fair to ask if the federal judiciary, either now or in 1974, could have effectively administered an injunction requiring that state and local officials devise and implement a metropolitan-wide busing plan. Amidst widespread political opposition, there is

private choice, state action plays an essential role. See Gerald E. Frug, *The Geography of Community*, 48 STAN. L. REV. 1047, 1070 (1996) (noting that to “achieve any significant level of homogeneity, suburbs need state-granted autonomy: the right to incorporate as a separate municipality; immunity from annexation by the central city; the privilege of engaging in exclusionary zoning; the ability to legislate and provide services solely in their own self-interest; the authority not only to tax the real property located within city boundaries but to spend the revenue collected solely on local residents”).

410. See GERALD N. ROSENBERG, *THE HOLLOW HOPE: CAN COURTS BRING ABOUT SOCIAL CHANGE?* (1991) (arguing that executive and legislative actions in early to mid-1960s, rather than *Brown v. Board of Educ.*, was driving force behind nation’s most significant advances in desegregation).

411. 347 U.S. 483 (1954).

412. *Id.* at 493.

413. See Reinhard, *supra* note 2 (noting that “[c]oncentrated poverty is consistently related to lower performance on every educational outcome measured” and “is an overwhelmingly urban phenomenon, and one that afflicts far more black children than any other racial or ethnic group”).

414. See, e.g., *Milliken I*, 418 U.S. at 761 (Douglas, J., dissenting) (“Today’s decision, given *Rodriguez*, [which denied an equal protection claim based on low-income status,] means that there is no violation of the Equal Protection Clause though the schools are segregated by race and though the black schools are not only ‘separate’ but ‘inferior.’”); *id.* at 782 (Marshall, J., dissenting) (stating that the majority “provide[s] no remedy at all for the violation proved in this case, thereby guaranteeing that Negro children in Detroit will receive the same separate and inherently unequal education in the future as they have been unconstitutionally afforded in the past”).

a significant difference between affirmative injunctive relief, which requires the ongoing cooperation of elected officials in order to achieve complex policy goals, and a court order that merely enjoins unlawful conduct.⁴¹⁵ Moreover, the scope of simple injunctive relief can become a battleground for endless litigation. In the aftermath of *Brown*, much of the South attempted to evade the Supreme Court by adopting racially neutral “freedom of choice” policies that essentially preserved the status quo.⁴¹⁶ It was not until 1971, seventeen years after *Brown*, that the Court approved mandatory busing as a means for remedying past racial discrimination.⁴¹⁷ Only three years later, the Court’s decision in *Milliken I* ensured that the tumult over desegregation would be confined to the central cities—places like Cleveland, where the outmigration of the white and black middle class had already hit full stride.⁴¹⁸

Perhaps the central lesson that emerges from nearly fifty years of desegregation is that judicial fiat, in the absence of political consensus, is an ineffective instrument for social change.⁴¹⁹ Unfortunately, since 1991, a nearly identical pattern of delay and inaction on the part of state and local governments has been playing itself out in response to school litigation brought under the Ohio Constitution. In *DeRolph v. Ohio*,⁴²⁰ plaintiffs representing a wide range of parents, students, school districts, and public interest groups filed a lawsuit in Ohio common plea court alleging that Ohio’s method of school funding violated various provisions of the state constitution, including the mandate that the Ohio legislature implement a system of taxation that “will secure a thorough and efficient system of common schools throughout the state.”⁴²¹

415. Daniel J. McMullen, a lawyer and former OSMCR director, commented: “I think one of the main lessons of the [Cleveland desegregation] case is that affirmative injunctions regarding complex policy goals just don’t work in the face of concerted opposition by defendants.” Email from Daniel McMullen, Partner, Calfee Halter & Griswold, to William Henderson (Jan. 8, 2002) (on file with N.Y.U. Review of Law & Social Change).

416. This type of deliberate practice alone was found to be insufficient to meet the requirements of *Brown*. See *Green v. County Sch. Bd. of New Kent County*, 391 U.S. 430, 439–41 (1968) (observing that “freedom of choice” plans are not per se unconstitutional, but noting their “ineffectiveness” to date and holding that “if there are reasonably available other ways . . . promising speedier and more effective conversion to a unitary, nonracial school system, ‘freedom of choice’ must be held unacceptable”).

417. See *Swann v. Charlotte-Mecklenberg Bd. of Educ.*, 402 U.S. 1 (1971) (upholding busing for desegregation).

418. Consider James, *supra* note 261, at 983 (arguing that after possibility of suburban participation in mandatory busing ended, public controversy over desegregation sharply abated, and that this result is consistent with class theory).

419. This is the thesis of Professor Rosenberg’s renowned book. See ROSENBERG, *supra* note 410. This is not to say that public interest lawyers have given up the fight. See, e.g., *LAW & SCHOOL REFORM* (Jay P. Heubert ed., 1999) (outlining six “law-driven” strategies for school reforms).

420. 677 N.E.2d 733, 737 (Ohio 1997) (upholding finding of trial court that Ohio’s method of school funding violates art. VI, § 2 of the Ohio Constitution).

421. OHIO CONST. art. VI, § 2.

The thrust of the plaintiffs' case was that heavy reliance on local property taxes generated serious inequities in school funding. In 1997, after six years of litigation and appeals, the Ohio Supreme Court ultimately agreed with the plaintiffs, ruling in a 4-3 decision that "Ohio's public school financing must undergo a complete, systematic overhaul" within one year of the Court's decision.⁴²² As of this writing, the Ohio General Assembly still has not put forward a new system of school funding that passes constitutional muster.⁴²³

2. Political Incentives

The Ohio school funding litigation provides a useful window for considering the political incentives for undertaking comprehensive reforms affecting education. On the one hand, it can be argued that political pressures invariably will undermine any legislation by the Ohio General Assembly that redistributes resources from wealthy to poor school districts. Yet this simple assessment is belied by various other facts. For example, in 1994, after the trial court ruled that the state's method of school funding was unconstitutional, the Ohio Board of Education, which is comprised of eleven popularly elected members, voted *against* any further appeals even though the Board was a named defendant in the case.⁴²⁴

Another political complexity in the school funding controversy is the fact that state judges in Ohio are elected by popular vote. As the litigation has dragged on, opponents of the *DeRolph* decision mounted an aggressive campaign during the fall 2000 judicial election to unseat the justice who authored the 1997 majority opinion.⁴²⁵ The clear strategy was to alter the com-

422. *DeRolph*, 677 N.E.2d at 747.

423. See *DeRolph v. Ohio*, 728 N.E.2d 993 (2000) (ruling that State's response continues to fall short of constitutional requirements); Stephen Ohlemacher, *Taft May Close Book on School Fund Plan; School-Funding Plans Remain Multiple Choice*, PLAIN DEALER (Cleveland), Jan. 10, 2001, at A1 (reporting that "[t]he current system has twice been ruled unconstitutional by the Ohio Supreme Court"); Chris Sheridan, *A 'Really Good' Fight Over Funding*, PLAIN DEALER (Cleveland), June 24, 2001, at G1 (commenting that "this summer's high court ruling will not be the last on school funding. The justices will speak again, and again, and again.").

424. See John Chalfant, *State Board of Education Protests Part in Aid Appeal*, PLAIN DEALER (Cleveland), Aug. 22, 1994, at B5 (reporting that special counsel to Governor Voinovich filed a notice of appeal despite a 6-5 vote by Board members not to pursue any appeals; reporting that many Board members were "upset and disturbed" about their inclusion in the appeal).

425. See T.C. Brown, *Business Interests Strive to Unseat Swing Vote on Ohio Supreme Court*, PLAIN DEALER (Cleveland), May 15, 2000, at A1 (quoting the state GOP, the "[s]chool funding ruling crystalizes the reason to replace Resnick with Judge O'Donnell" and reporting that the Ohio Chamber of Commerce had hired out-of-state political experts to show its members "how to change the makeup of the Ohio Supreme Court"); T.C. Brown, *Moyer Urges Appointing of Top Court, Chief Justice Says Political Smears Would Be Avoided*, PLAIN DEALER (Cleveland), Nov. 10, 2000, at B1 (reporting that "attacks against Justice Alice Robie Resnick [who authored the *DeRolph* decision] were particularly vicious, although they did not stop voters from electing her to a third term"); Sandy Theis, *Taft Vows to Stand Firm on School-Funding Issue*, PLAIN DEALER (Cleveland), June 13, 2000, at B4 (reporting that the day after the *DeRolph* decision, "the Ohio Republic Party announced creation of its Defeat Alice Resnick campaign").

position of the court and reverse *DeRolph* on a motion for reconsideration.⁴²⁶ Nevertheless, Ohioans voted to maintain the current composition of the court, suggesting that a more equitable system of school funding, in fact, may be an issue capable of substantial political support.

Of course, the first elected officials who take the Supreme Court seriously and draft “a complete systematic overhaul” of Ohio’s method of school finance will become a lightning rod in the ensuing public debate. In the marketplace of political ideas, there are serious collective action problems for promulgating bold initiatives, as opponents can seize on a plan’s incomplete details to predict various disastrous outcomes. Ideally, civic leaders, public interest groups, newspaper editorial boards, and academics can participate in this process and willingly endure some of the initial fallout that might occur prior to reaching a consensus. This type of interchange essentially describes the political dynamics that led to the creation of the consolidated district in Wake County, North Carolina.⁴²⁷

The same political incentives that foster the status quo in Ohio’s school finance system also might stifle any serious attempt by state legislators to implement educational reforms based on racial and socioeconomic integration. But once again, it is important to review the facts. Because race often tracks class, a program of socioeconomic integration likely will have effects on racial composition. Longitudinal polling data on school integration reveals that the vast majority of white and minority citizens support the principle of racially integrated schools.⁴²⁸ A Gallup poll administered in 1983 tracked white attitudes toward schools with differing racial compositions and found that 76% of white parents would have no objection to sending their children to schools that were up to *half* black; past this point, however, support drops sharply.⁴²⁹ Extensive case studies conducted by Professor Armor corroborate this finding.⁴³⁰ In 1991, a highly respected good-government organization, the Citizens League Research Institute, conducted a poll of metropolitan Cleveland

426. See Theis, *supra* note 425, at B4 (discussing campaign and concluding that “[t]he implication is clear: If O’Donnell replaces Resnick, the 4-3 ruling can be reversed.”).

427. See *supra* Part III.A.2.

428. See ARMOR, *supra* note 23, at 195–98. Professor Armor reports the following:

Today there is virtually no support for racially separate schools, and the general principles of school integration and desegregation are strongly supported by the vast majority of white and minority citizens. For example, when asked whether black and white students should attend the same or separate schools, only about one-third of whites said ‘same schools’ in 1942. Those answering ‘same schools’ rose to 50 percent by 1956, 75 percent by 1970, and 90 percent by 1980 [I]n 1990, fewer than 5 percent of whites endorse the principle of racially separate schools.

Id. at 195 (citation omitted).

429. See *id.* at 195–96 (discussing results of Gallup poll that was conducted between 1958 and 1983).

430. See *id.* at 196–98 (noting that national polling results “are highly consistent with surveys of parents’ attitudes that the author has conducted in a number of school systems,” and discussing specific examples).

and found that 77% of area residents preferred racially mixed neighborhoods and schools.⁴³¹ However, the same survey also contained an important caveat: 65% of respondents reported that better education “is one of the most important incentives for getting people to move into a neighborhood mostly of another race.”⁴³²

3. *Racial Tipping*

A central problem which underlies the social and economic trends discussed in this article is the inability of citizens to fully effectuate their preferences in terms of residential and educational integration. Although it is possible to attribute racial imbalance to abiding separatist preferences that are revealed through actions rather than polling results,⁴³³ an alternative, more convincing explanation is the inability of unchecked market forces to produce a stable racial equilibrium.

In his seminal 1971 article, *Dynamic Models of Segregation*,⁴³⁴ Professor Thomas Schelling set forward a theoretical basis for neighborhood “tipping.” The central thrust of Schelling’s analysis is that, *in the absence of concerted action by whites and blacks*, single-race neighborhoods may be the only stable equilibriums; moreover, this outcome is likely to emerge even if a majority of citizens prefer racial integration over racial isolation.⁴³⁵ The key premise of Schelling’s analysis is that most citizens have some upper limit of tolerance for residing in a neighborhood that is populated, either partially or predominantly, by citizens of another race. Once this individual limit is reached, that citizen exits the neighborhood. Conversely, a neighborhood may offer a level of integration that is attractive to both black and whites. But insofar as it becomes more attractive to one race over the other, a “tipping” process could also disrupt the relatively fragile equilibrium and produce a single-race outcome.⁴³⁶ Schelling’s basic assumptions are hardly controversial; both case studies⁴³⁷ and polling data⁴³⁸ suggest that most whites are unwilling to accept a

431. See *Effectiveness of Mandatory Busing in Cleveland: Hearing Before the Subcomm. on the Constitution of the House Comm. on the Judiciary*, 104th Cong. 30 (1995) (congressional testimony of Louis Erste, Fellow of the Citizens League Research Institute). This testimony contains other relevant polling data. For example, a 1992 survey of Cleveland public school parents found that school choice and proximity were highly valued, even at the expense of racial balance. However, 76% responded that such an outcome would be intolerable if it was accompanied by lower student achievement. *Id.* at 30–36.

432. *Id.* at 30.

433. This possibility is cogently discussed and rejected in ARMOR, *supra* note 23, at 203–08.

434. Thomas C. Schelling, *Dynamic Models of Segregation*, 1 J. MATH. SOC. 142 (1971).

435. See Schelling, *supra* note 434, at 180 (noting that “the results generated by this analysis do not depend upon each color’s having a preference for living separately. They do not even depend on a preference for being in the majority!”).

436. See *id.* at 182–83 (discussing possibility of a “tipping-in” point when a large percentage of blacks would be attracted to a neighborhood that was formerly all-white).

437. See *supra* notes 52–55 and accompanying text.

racial balance in which they are in the minority. Similarly, several studies have found that a majority of blacks prefer to live in racially mixed rather than predominantly black neighborhoods.⁴³⁹

Schelling acknowledges that his stylized model omits several factors that also affect housing decisions, such as income, speculative behavior, time lags, misperception, and schools.⁴⁴⁰ Yet as Schelling intimates, it is hard to conceive how any of these factors would systematically foster a more integrated outcome. To demonstrate, let us extend this analysis to a hypothetical white middle-class family that places a premium on racial diversity. They are considering a home purchase in a suburb that has a total black population of 25%; the enrollment in the local public schools is 40% black. Although this couple may find this level of diversity ideal, their willingness to buy may be affected by the likelihood that the racial composition of the neighborhood or the schools will shift significantly during the next several years. According to data collected by Professor Armor, a large majority of white parents object to schools in which their child is in the racial minority.⁴⁴¹ Therefore, assuming our hypothetical parents fall into this group, the relatively small differential between 40% and 50% racial balance in the schools may affect their housing decision.

This outcome is supported by a recent study of the demographics of racially mixed neighborhoods.⁴⁴² Using census data that linked neighborhoods to households, Professor Ingrid Gould Ellen found that racial transition occurs primarily through white avoidance rather than white flight.⁴⁴³ Among white households moving into integrated areas, the new entrants tended to be younger and less likely to be married or have children than those opting for white neighborhoods. In contrast, childless black households were generally found to be more tolerant of predominantly black neighborhoods than their counterparts with children. Finally, white renters were “considerably more willing to move into and remain in racially mixed areas than homeowners are.”⁴⁴⁴

When taken in the aggregate, Professor Gould Ellen’s findings have startling implications for education: Moderately integrated neighborhoods can easily result in predominately minority schools. Returning again to metropolitan Cleveland, this precise outcome can be observed in the demographic shifts

438. See KEATING, *supra* note 49, at 198–99 (discussing social science research based on polling data which found that acceptance of integration among whites was predicated on remaining in clear majority).

439. See *id.* at 199.

440. See Schelling, *supra* note 434, at 144, 181, 186 (noting that model can be “enlarged to accommodate some of these enrichments”).

441. See ARMOR, *supra* note 23, at 195–98.

442. See Ingrid Gould Ellen, *Welcome Neighbors? New Evidence on the Possibility of Stable Racial Integration*, 15 BROOKINGS REV. 18 (1997) (explaining and testing the “racial neighborhood stereotyping” hypothesis).

443. See *id.* at 20. This same conclusion was discussed *supra* note 51 and accompanying text.

444. Gould Ellen, *supra* note 442, at 20.

occurring in seven suburban school districts on the east side of Cleveland that lie in the well-established path of black residential migration. (See Table 11.)

The baseline for this analysis is the black residential and enrollment changes in Cuyahoga County, which encompasses all seven school districts. Between 1990 and 2000, the black population as a percentage of total population increased from 24.8% to 27.4%. This proportionate increase meant that some other ethnic group decreased in *relative* size (thus comprising a smaller slice of a pie chart). During this same period, black enrollment as a percentage of total public school enrollment increased from 38.8% to 42.0%. The right hand column represents the ratio of black enrollment changes to black residential changes. If all ethnic groups had identical birthrates, moved in and out of

**Table 11: Black Residential and Enrollment Changes,
Seven Cleveland Suburbs**

School District & Cuyahoga County	% of Black Residents			% of Black Student Enrollment			Ratio of School to Residential Change
	1990	2000	10 yr. Change	1990	2000	10 yr. Change	
Cuyahoga County	24.8%	27.4%	2.6%	38.8%	41.7%	3.0%	1.13
S. Euclid-Lyndhurst	4.6%	11.6%	7.0%	7.9%	22.7%	14.8%	2.11
Richmond Hts.	7.7%	23.9%	16.2%	12.3%	40.1%	27.8%	1.72
Maple Hts.	14.5%	44.3%	29.8%	25.4%	72.9%	47.5%	1.59
Euclid	15.5%	30.6%	15.1%	29.1%	53.2%	24.1%	1.60
Bedford-Bedford Hts.	26.6%	38.8%	12.2%	41.0%	59.3%	18.3%	1.50
Cleveland-Univ Hts.	29.8%	34.4%	4.6%	60.5%	71.9%	11.4%	2.48
Shaker Hts.	37.3%	38.5%	1.2%	48.1%	51.2%	3.1%	2.56

Source: U.S. Census and Ohio Dep't of Educ.; additional calculations by author.

political subdivisions at the same rate, and utilized private schools at the same level, we would expect these ratios to be close to 1.00.

The large differential between Cuyahoga County (1.13) and these seven suburbs (1.50 to 2.56) suggests that an influx of new black families into these communities has had a disproportionately large effect on the racial composition of the local schools. The earlier discussion of Schelling and Gould Ellen provides at least two mutually compatible explanations for this pattern. First, it is possible that black families with children are "tipping-in" to these suburban districts because of the better schools. (See proficiency data in Appendix C.) Moreover, all of these communities have an established base of black residents, making relocation to a majority white suburb a less intimidating prospect.

A second explanation (wholly compatible with the first) is that some white families *with children* are avoiding these communities. In 1990, all seven of these communities had levels of residential integration that were potentially attractive to many families, and only one school district had a majority black

enrollment. Ten years later, black residents still are a minority in all seven communities, but black students comprise a majority in five of the seven school systems. Because the remaining two districts started the 1990s with the lowest levels of residential integration, our hypothetical white family has no reasonable basis to presume that these districts will somehow achieve a stable racial equilibrium during the next decade. Therefore, because the county's 60%-40% racial mix is largely ephemeral in the public schools, our hypothetical family will relocate to a more homogenous suburb on the fringes of the metropolitan area. Recent census data in Cleveland strongly supports this hypothesis.⁴⁴⁵

Finally, consistent with Professor Gould Ellen's findings, it is interesting to note that higher levels of rental properties seem to encourage residential racial stability. For example, in Shaker Heights, where 35.1% of housing units are occupied by renters, the racial composition of the community changed a modest 1.2%.⁴⁴⁶ In contrast, renters occupy only 16.2% of all units in Maple Heights, but the proportion of city residents who are black increased by a dramatic 29.8%.⁴⁴⁷ Yet in terms of education, a higher proportion of rental properties had no obvious mitigating effect on racial transition in the local schools. In fact, racial composition of the Shaker schools was the most responsive to changes in residential integration.

4. Equal Protection Scrutiny

The central point of the foregoing discussion is that Schelling's theory of tipping is applicable to the racial composition of public schools; and that under certain circumstances, such as those in suburban Cleveland, it will operate with a vengeance. Schelling posits that the only way to achieve a stable long-term equilibrium is for citizens to engage in a "concerted action" that essentially controls entry into a fragile but otherwise stable integrated environment.⁴⁴⁸ When the underlying instability is the racial tipping of integrated schools throughout a large metropolitan area, "concerted action" should be construed, for practical reasons, as legislation.

Although stable integration could be accomplished bluntly with explicit racial quotas, this option is both legally problematic and normatively unattractive. The two legislative proposals in Section C involve the provision of affordable housing and limited open enrollment in public school districts.

445. See Robert L. Smith & Dave Davis, *Number of Whites Declines*, PLAIN DEALER (Cleveland), Mar. 17, 2001, at A1 (reporting "white exodus to distant suburbs" and that Greater Cleveland's "fastest growing county, Medina, is also the most racially isolated. The census found everyone there living in a virtually all-white neighborhood.").

446. U.S. Census Bureau, 1990 and 2000 Census, available at www.census.gov.

447. *Id.*

448. Schelling, *supra* note 434, at 180–81 (noting that his analysis "is pertinent to the study of the way that numerical quotas or ratio quotas or limits on total numbers may affect the likelihood of a mixed stable equilibrium" and that concerted action is a likely prerequisite (emphasis added)).

However, these proposals will invariably require some system of eligibility. Under current equal protection jurisprudence, any system of classification that focuses on the race of the beneficiaries is subject to strict scrutiny.⁴⁴⁹ Such a classification is constitutionally permissible only if it serves a compelling state interest and is narrowly tailored to achieve that goal.⁴⁵⁰ The Supreme Court has not addressed the issue of whether voluntary raced-based admissions policies at the K-12 level can survive strict scrutiny.⁴⁵¹ However, because the Court has retreated from affirmative action in other contexts, lower courts ruling on raced-based education polices are deeply divided.⁴⁵² In addition, the D.C. and Fifth Circuits have ruled more categorically that the goal of racial diversity, in the absence of a prior constitutional violation, simply does not rise to the level of a compelling state interest.⁴⁵³

In contrast, wealth-based classifications are subject to the more lenient rational basis review.⁴⁵⁴ In terms of education reform, a focus on socioeconomic status is preferable on several grounds. First, family income is a strong predictor of academic performance.⁴⁵⁵ In Ohio, some of the worst performing districts in

449. For an excellent summary and analysis of this evolving standard, see Kevin Brown, *The Constitutionality of Racial Classifications in Public School Admissions*, 29 HOFSTRA L. REV. 1 (2000).

450. See, e.g., *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 227 (1995) (addressing race-based set asides in local government contracting).

451. See Brown, *supra* note 449, at 5 (“The Supreme Court has never directly addressed the issue of the power of states and local school officials to take account of race and ethnicity to further integrated public education in a context without an allegation of de jure segregation.”).

452. Compare *Wessman v. Gittens*, 160 F.3d 790 (1st Cir. 1998) (applying strict scrutiny under *Adarand* and striking down an admissions policy for magnet high school in city of Boston that required at least 35% of student body to be black or Hispanic), and *Tuttle v. Arlington County Sch. Bd.*, 195 F.3d 698, 707 (4th Cir. 1999), *cert. denied*, 120 S.Ct. 1552 (2000) (applying strict scrutiny under *Adarand* and striking down kindergarten admissions policy that partially relied on student ethnicity), with *Hunter ex rel. Brandt v. Regents of Univ. of Cal.*, 190 F.3d 1061, 1067 (9th Cir. 1999) (applying strict scrutiny and upholding use of racial criteria in admissions to elementary school run by education researchers at UCLA because it served compelling state interest “of providing effective education to [California’s] diverse, multi-ethnic public school population” and was narrowly tailored), and *Brewer v. West Irondequoit Central Sch. Dist.*, 212 F.3d 738, 753 (2d Cir. 2000) (vacating and remanding lower court preliminary injunction involving race-based city/suburban transfer program; observing that in some instances reduction of racial isolation due to de facto segregation can be compelling state interest justifying racial classifications).

453. See *Lutheran Church-Missouri Synod v. FCC*, 141 F.3d 344, 354 (D.C. Cir. 1998) (holding that “diversity” alone is not compelling interest under current equal protection jurisprudence); *Hopwood v. Texas*, 78 F.3d 932, 948 (5th Cir. 1998) (same).

454. See *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 23–24, 55 (1972) (upholding state system of school funding under rational basis review despite large disparities between wealthy and poor districts; stating that “at least where wealth is involved, the Equal Protection Clause does not require absolute equality or precisely equal advantages”).

455. See WAKE COUNTY PUB. SCH. SYS., *THE IMPACT OF POVERTY UPON SCHOOLS*, Rep. No. 99.20 (Mar. 1999), at http://www.wcpss.net/evaluation-research/index_reports/the_impact_of_poverty_upon_schools.pdf (summarizing academic and government research on this issue and providing extensive bibliography).

the entire state have poor, all-white student populations.⁴⁵⁶ Second, choices in both public and private education are a function of income; regardless of ethnicity, exit from a district with low academic performance is seldom an option for families with low household incomes. Third, insofar as income closely tracks race, as in metropolitan Cleveland,⁴⁵⁷ an emphasis on socioeconomics likely will produce substantial racial integration. This important indirect effect will help to avoid the disastrous educational outcomes that occur when isolation along both dimensions is allowed to persist.⁴⁵⁸

Finally, making substantial efforts to provide equal opportunity of education at the primary and secondary level should mitigate (if not eliminate) the need for class- or race-based preferences at the college level. In the author's opinion, integration based exclusively on socioeconomics provides a normatively appealing mechanism for improving the educational outcomes, and ultimately the life chances, of society's most disadvantaged students.

C. Legislative Solutions

In this final section, this article sets forth two legislative proposals that could achieve substantial socioeconomic (and, indirectly, racial) integration in the Cleveland metropolitan area. However, before commencing this relatively brief discussion, it is important to summarize this article's goals vis-à-vis the current educational debate.

First, this article demonstrated, at least in the context of metropolitan Cleveland, that longstanding demographic trends, rather than court-ordered desegregation, explain the persistent pattern of racial and socioeconomic isolation in both city and suburban schools. Second, it presented clear statistical and visual proof (using Geographic Information Systems (GIS) mapping) that racial and economic isolation has enormous predictive power in educational outcomes. Third, it provided strong empirical evidence that increased levels of integration can improve significantly the academic performance and life chances of poor and minority students, and that such efforts have been politically viable in a thriving metropolitan economy. Fourth, it outlined a theoretical and empir-

456. For example, in 1998–99, all-white Perry County, where the state trial court judge in *DeRolph* found Ohio's system of public school finance unconstitutional, half of the districts were rated "academic emergency" and the other half were on "academic watch"; all but one district had median incomes in the bottom 10% of the state. See ODE Pupil Profile, *supra* note 168 (district performance and ethnicity data); Ohio Dep't of Taxation Web site, *supra* note 325 (income data); see also *supra* text accompanying notes 315–17 (explaining and summarizing state's rating system). In 1998–99, in poor, all-white Pike County, the Eastern Local School District met one out of twenty-seven state standards; statewide, only Cleveland had a worse performance.

457. In the Cleveland metropolitan area, the school districts with the largest minority populations were also the districts with the lowest median household incomes. See Appendix C.

458. For example, enrollment in the Cleveland, East Cleveland, and Warrensville Heights schools is predominantly, if not entirely, poor and minority, and their proficiency test scores also are among the worst in the seven-county region. See Map 2, 4–5 and Appendix C.

ical explanation for why market forces often fail to produce stable racial equilibriums in suburban school districts. Fifth, it has suggested, for both legal and normative reasons, that stable equilibriums in both schools and neighborhoods can best be achieved by mechanisms that rely exclusively on socio-economic status rather than race.

In sum, this article has shifted the burden of proof to critics who maintain that increased levels of integration are as ineffective, impractical, or counter-productive as an educational reform. The details of such a reform can and should be hammered out through the legislative process. The proposals discussed below are preliminary solutions that at least satisfy the major legal and practical issues outlined in Part III.B. The author readily acknowledges that a collaborative effort by policymakers, public interest organizations, citizen groups, and academics could certainly do better; however, the author is merely willing to go first.

The two legislative proposals to be discussed in Section C involve (1) the provision of affordable suburban housing through the creation of a regional zoning authority ("RZA"), and (2) a limited open enrollment requirement ("OER") for school districts based on academic achievement and the percentage of students eligible for federally subsidized lunches. These solutions likely would produce better results if combined; but for reasons of analytical clarity, that task is left for another day.

1. Regional Zoning Authority

The homogenous character of most affluent school districts is largely a product of exclusionary zoning.⁴⁵⁹ Although local school officials rarely are involved in local zoning decisions, they often profit the most from exclusionary policies. Affluent districts typically have ample funding with a relatively low tax burden imposed on residents. Moreover, because students from affluent families are inculcated with the relationship between education and economic mobility, affluent districts generally have fewer motivational or disciplinary problems and have higher levels of achievement. In this respect, education is a relatively unique public good: the social characteristics of the students who make up a public school system essentially define its quality to the external world.⁴⁶⁰ To compound matters, suburban districts also can offer better salaries and higher levels of community esteem for teachers. Not surprisingly, struggling urban districts often are unable to fill vacant faculty positions.⁴⁶¹

459. This claim is so well-settled as to barely warrant citation. However, for a recent, insightful discussion of this issue, see Frug, *supra* note 409.

460. For a thoughtful and thorough discussion of this aspect of public education, see Lee Anne Fennell, *Beyond Exit and Voice: User Participation in the Production of Local Public Goods*, 80 TEX. L. REV. 1 (2001).

461. See, e.g., Debra Nussbaum, *Plenty of Students, Not Enough Staff*, N.Y. TIMES, Feb. 18, 2001, at 14NJ (reporting that teacher shortage in New Jersey is exacerbated in urban districts

In general, local officials charged with zoning decisions have virtually no incentive to behave altruistically. More inclusive zoning invites in residents that impose relatively high demands on social services without a commensurate ability to pay.⁴⁶² Moreover, without collective action by a large majority of suburban communities, the burden of improving educational opportunities will fall on a handful of altruistic suburbs while the benefits will be enjoyed regionally. Like a classic prisoner's dilemma, the incentive to free ride on altruistic suburbs makes any voluntary regional coalition inherently unstable, and the social benefit of improved educational outcomes is lost.⁴⁶³

One approach to this problem is state legislation that creates a regional zoning authority ("RZA").⁴⁶⁴ Such an entity would be charged with planning

where "a teacher might be judged on their students' performance in tests even though more than half the students did not spend the entire year with the same teacher," thus creating "an unhealthy atmosphere"; Editorial, *The Public School Emergency*, N.Y. TIMES, Nov. 14, 2000, at A28 (reporting that "teacher shortage is a national phenomenon" and that "New York's big urban districts are falling further and further behind in the quest to hire fully qualified teachers").

462. Stable, integrated communities often can command a premium. Of the handful of suburban cities nationally that have maintained stable integration for a period of decades (e.g. Shaker Heights, Ohio; Oak Park, Ill.; Berkeley, Cal.), all are considered high-tax communities. However, in each case, integration evolved from preexisting zoning rather than as a product of conscious and explicit inclusionary planning.

463. See Fennell, *supra* note 460, at 4, 32–35, (arguing that public education has both a consumptive value conferred on students and a "public value" that affects the entire community).

464. Because RZAs require intervention by the state in matters of local zoning, it is important to acknowledge and distinguish an important historical parallel. In 1975, the New Jersey Supreme Court declared the practice of exclusionary zoning illegal under the state constitution. See *Southern Burlington County NAACP v. Mt. Laurel*, 336 A.2d 713, 724 (1975) (Mt. Laurel I). Following ten years of litigation, the state legislature passed the Fair Housing Act of 1985. See N.J. STAT. ANN. § 52:27D-301–07 (West 2001). The 1985 Act created the New Jersey Council on Affordable Housing (COAH), which is charged with "estim[ing] the present and prospective need for low and moderate income housing at the State and regional levels" and adopting guidelines for the "fair share of the [low- and moderate-income] housing need in a given region." § 52:27D-307. Shortly thereafter, the New Jersey Supreme Court held that the 1985 Act had adequately responded to the mandates of *Mt. Laurel I* and ordered that "all cases pending before us be transferred to the Council" in order to determine each municipality's fair housing obligation. *Hills Development Co. v. Township of Bernard*, 510 A.2d 621, 634 (1986) (Mt. Laurel III). Approval of a municipal housing plan by COAH effectively caps the low to moderate housing obligations of a municipality for a period of six years. § 52:27D-307e. Moreover, Regional Contribution Agreements (RCAs) permit communities, typically affluent, to pay another city to assume up to 50% of their fair housing burden. See Cynthia N. McKee, *Resurrecting Mount Laurel: Using Title VIII Litigation to Achieve the Ultimate Mount Laurel Goal of Integration*, 27 SETON HALL L. REV. 1338, 1349–54 (1997) (describing and strongly criticizing state law permitting RCAs). However, twelve years after the passage of the 1985 Act, a comprehensive empirical study found negligible urban-to-suburban relocation and a "dramatic mismatch" between the location of low-income households and the location of newly created affordable housing. See Naomi Bailin Wish & Stephen Eisdorfer, *The Impact of Mount Laurel Initiatives: An Analysis of the Characteristics of Applicants and Occupants*, 27 SETON HALL L. REV. 1268, 1302–05 (1997). Many poor families were simply too poor to even *apply for* much of the "affordable" housing that was built. See *id.* at 1283, 1304. We are left to wonder whether the true intent of the 1985 Act was to placate the New Jersey Supreme Court without effecting true systemic change. This article's discussion of RZAs proceeds on the assumption that they would be

and implementing a regional program of affordable housing in portions of the metropolitan area with low levels of poverty (and, invariably, better performing public schools).⁴⁶⁵ Within limits, the RZA would override local zoning codes, which frequently authorize only single-family homes on large lots, in order to permit the development of small, discrete land tracts for multi-family housing. Low-income families would then be given preference in the sale or rental of these new units. Although this zoning authority raises some complex issues of home rule, which could vary from state to state, they are not necessarily insurmountable.⁴⁶⁶

RZA board members would be elected by popular vote from geographic districts of equal population. In primarily rural areas, RZAs would be operated at the county level. However, in larger metropolitan areas like Cleveland, it would be better to define the boundaries of the RZA according to the Census Bureau's "urbanized area" designation, which essentially includes the central city and suburbs (regardless of county borders) and excludes rural areas. (See Map 6.) Urbanized areas are defined by population and employment and are adjusted every ten years to reflect new growth. Thus, urbanized RZAs would likely grow while adjacent county RZAs would shrink. When a certain percentage of a county's land area or population (e.g. 60%) falls within an urbanized RZA, the county and the urbanized RZA would merge.⁴⁶⁷

The authority of the RZA could be capped in at least three ways: (1) the number of low-income residents living in each municipality (meaning that the central city and many inner-ring suburbs would be exempt in practice, although not legally so); and (2) an upper limit on the number of housing units that can be created via a RZA zoning amendment (for example, 8% of all housing units in a municipality, to quell fears of tipping); and (3) a fair share requirement that would require a fairly uniform distribution of zoning changes (geographically

designed to actually achieve the stated goal of socioeconomic integration rather than defuse an unpopular judicial mandate.

465. At least in metropolitan Cleveland, this correlation is obvious from Map 4.

466. State interference with a municipality's zoning authority raises relatively complex issues of home rule power. For example, under the Ohio Constitution, "[m]unicipalities shall have authority to exercise all powers of local self-government and to enforce within their limits such local police, sanitary, and other similar regulations, as are not in conflict with *general laws*." OHIO CONST. art. XVIII, § 3 (emphasis added). According to the Ohio Supreme Court, general laws are "laws operating uniformly throughout the state, which prescribe a rule of conduct upon citizens generally, and which operate with general uniform application throughout the state under the same circumstances and conditions." *Garcia v. Siffirin Residential Ass'n*, 407 N.E.2d 1369, 1379 (Ohio 1980) (striking down a state law that mandated that homes for mentally retarded be permitted in any residential district throughout the state because law was not general in application). *But see* *Clermont Environmental Reclamation Co v. Wiederhold*, 442 N.E.2d 1278, 1282-83 (Ohio 1983) (upholding statute as "general law" that gave the Hazardous Waste Facilities Approval Board authority to cite facilities that would otherwise violate local zoning provisions, "even if the result of the classification is that the statute does not operate in all geographic areas within the state," and distinguishing *Garcia*).

467. On Map 6, the balance of Summit County would merge with the Akron RZA and the balance of Lake County would merge with the Cuyahoga RZA.

and temporally) throughout the metropolitan area. This third restriction likely would require that the RZA be given the power of eminent domain.

Because land prices in affluent suburbs reflect the underlying land use restrictions, the economics of RZAs offer the prospect of substantial private sector participation. For example, a one-acre tract of vacant land in a desirable suburb would be worth considerably more if a developer were permitted to construct a four-family cluster home.⁴⁶⁸ Thus, RZAs could mobilize builders to compete for development sites; additionally, much of this cost savings could be passed on to low-income families in the form of lower rent or mortgage payments, thus reducing (or possibly eliminating) the need for a government subsidy. Conversely, if the family decided to sell their unit within a ten-year period, proceeds in excess of the inflation rate would be returned to the state.

Finally, small, discrete development scattered throughout a community would reduce unwarranted fears of blight, crime, and dropping home values. RZA and local officials could work together to develop zoning changes in full compliance with RZA mandates while minimizing disruptions to the community. Ideally, the dynamics of the RZAs would facilitate the type of “geography of opportunity” found in the Gautreaux program,⁴⁶⁹ and allow an entire region to enjoy the full benefits of a better educated citizenry.

2. Open Enrollment Requirement

A second possible reform that would reduce levels of racial and socio-economic isolation in metropolitan area schools is for the state legislature to create a limited open enrollment requirement (“OER”). Eligibility criteria for the OER would be subject to certain baseline conditions in the school district of residence and the receiving district. For example, following Ohio’s designation for school performance,⁴⁷⁰ low-income households in an “academic emergency” district (meeting 0 to 8 standards) would be given the option of transferring to a better performing school district that was either in the high “continuous improvement” (20–25) or “effective” (26–27) categories. State funding would follow the student to the receiving district, but local funding would not. Conversely, high-performing districts would be required to enroll out-of-district students until they comprise a set percentage of total enrollment (for example, 12%) or the total number of low-income students in the district exceeds a certain threshold (for example, 25%). A computer algorithm could assist with the

468. As a matter of simple economics, developers likely would prefer fewer land use restrictions in desirable suburbs because several sales (or rentals) at a lower price might yield more profit than one single-family home. It should come as no surprise that in the landmark Supreme Court case, *Warth v. Seldin*, 422 U.S. 490 (1975), *both* private developers *and* low-income central city residents challenged the exclusionary zoning laws of Penfield, an affluent suburb of Rochester, New York.

469. *See supra* text accompanying note 350.

470. *See supra* text accompanying notes 315–17 for a summary of Ohio’s school classification system.

process of matching districts and family preferences in order to solve the complex logistical task of arranging adequate and efficient transportation.

The OER has both significant advantages and drawbacks. In terms of advantages, the OER mechanism presents no issues of home rule that could be challenged under state law. In Ohio, as in most states, the state constitution gives the state legislature plenary authority over the structure and organization of the public schools.⁴⁷¹ Legislative consensus is therefore the only possible obstacle to enactment. A second advantage of the proposed OER is that it allows the self-selection bias to work in its favor; any student that would excel but for his or her environment would be free (with the exception of commute time) to pursue a more rigorous academic experience. A third benefit is that relatively wealthy and homogenous school districts would partially subsidize the education of the new entrant students since only state money, not local tax revenues, would follow. Finally, in keeping with the Tiebout hypothesis of intrametropolitan competition among political subdivisions,⁴⁷² there is some empirical evidence to suggest that metropolitan areas with numerous school districts actually achieve better educational results.⁴⁷³ An OER, in contrast to a consolidated school district approach, preserves this governmental feature and avoids unnecessary battles over political turf.

Focusing on Cleveland, there are at least two ways to compensate for the siphoning of students from the city and inner-ring suburbs. First, the state could charter metropolitan-wide magnet schools that would be located near downtown Cleveland, thus adding momentum to a commercial and cultural revitalization that has already started to take hold. These schools would be open to any student in Cuyahoga County based on merit, with a "plus" factor for students from low-income families. Excellent academic achievement among magnet graduates also would be a source of regional pride and provide an incentive for some families to either stay in Cuyahoga County or move closer to the urban core, thus furthering the subsidiary goal of increased integration at the neighborhood level.

A second mechanism for encouraging an inflow of residents back toward the urban core is for the "vesting" of a student's right to attend a high performing school district. For example, any family whose child has been enrolled in a

471. See OHIO CONST. art. IV, § 2(B)(2)(d); see also CLAYTON B. GILLETTE & LYNN A. BAKER, *LOCAL GOVERNMENT LAW* 57-58, 227-28 (2d ed. 1999) (summarizing political subdivision status of school districts in most states and describing the presumption that most state constitutions merely limit state power vis-à-vis local subdivisions that the state has created).

472. See Charles M. Tiebout, *A Pure Theory of Local Expenditures*, 64 J. POL. ECON. 416 (1956) (theorizing on existence of beneficial competition for residents among municipalities through various packages of tax burdens and local amenities, but assuming negligible relocation costs and no wealth constraints).

473. See Fennell, *supra* note 460, at 30 & n.103-04 (collecting citations of studies but questioning basis of competition since costly exit to more expensive suburbs may actually engender more parental involvement in less wealthy area).

district for a prolonged period of time (for example, five years) would be permitted to remain in that district if that family relocated to a distressed district in the same county. If the family's property tax rate was lower after the move, they would be liable for the higher tax rate until their child (or children) completes his or her final year of school. This feature would permit families to make housing decisions that potentially foster integration without anxiety over unsatisfactory schools.

Although participation *by school districts* would be mandatory, participation by students would be entirely voluntary, mimicking the range of choice available to any affluent family that purchases a house based on the quality of the local schools. Many market-based public interest groups hold the Cleveland voucher program out as a potential salvation for urban education, yet the level of citizen choice offered by the OERs proposed here far exceeds the meager offerings of a program that is now before the U.S. Supreme Court.⁴⁷⁴

However, there are at least two major drawbacks to the OER solution. First, because of isolated housing patterns in metropolitan Cleveland,⁴⁷⁵ low-income students would frequently live a significant distance away from their schools. The Gautreaux research and other studies suggest that the primary benefits of socioeconomic integration are achieved through an expanded range of peer interactions.⁴⁷⁶ Long commutes to far away neighborhoods would significantly blunt the ability of these relationships to develop. Second, the burden of travel, as in Wake County, would likely fall disproportionately on people of color, who are often overrepresented in low-income groups. As a result, cynicism and resentment could potentially undermine support for the OER among a constituency it was designed to benefit. The author is certainly sympathetic to these objections and would therefore refer to OERs as a "second best" solution.

474. The Cleveland voucher program provides approximately 3800 students with up to \$2500 voucher to attend "[p]rivate schools within the geographic boundaries of the Cleveland school district . . . [and] public schools adjacent to the District," though no public schools have ever participated in the program. *Simmons-Harris v. Zelman*, 72 F. Supp. 2d 834, 836 (N.D. Ohio), *aff'd*, 234 F.2d 945 (6th Cir. 2000) (2-1), *cert. granted*, 122 S. Ct. 23 (2001). The pro-market Institute for Justice, which is counsel for the petitioner in *Simmons-Harris*, has extensive pro-voucher material on their Web site. See <http://www.ij.org/profile/index.html> (last visited Apr. 25, 2001). At least one critic has questioned the motivations of the pro-market groups that have funded much of the voucher litigation. See JOHN F. WITTE, *THE MARKET APPROACH TO EDUCATION* 188 (2000) (noting that "there is a reasonable suspicion that the intentions of many involved [in the Cleveland and Milwaukee litigation] were to use the original, limited programs, under the favorable cloak of aiding the children of our poorest families, to gain political acquiescence and support in the media and the courts for a much larger program"). In the author's opinion, if vouchers are upheld in Cleveland, there ultimately will be a conflict over whether the program should be expanded along the lines of either choice (available to all families generally) or equity (limited to poor families residing in failing school districts).

475. See *supra* text accompanying notes 310–313.

476. See *supra* notes 345–49 and accompanying text.

3. *Final Remarks on Norms, Self-Selection, and the Ability to Pay*

The core policy decision that underlies the RZA and OER proposals discussed above is that the life chances of poor (and insofar as race tracks class, minority) students can be significantly improved if they are given the opportunity to move into, or at least enroll in, a public school in which educational achievement is a strong social norm. In a middle- or upper-income suburb, this norm is reinforced either directly (through dialogue with parents) or indirectly (through observing the careers paths of parents and older siblings) in a variety of non-academic interactions.⁴⁷⁷ Setting aside the possibility that suburban schools have better academic achievement because they have a more rigorous curriculum or employ more qualified or dedicated teachers, children educated in a middle-class environment have the *additional* advantage of being in an environment where education is clearly understood as an effective means to economic and social self-determination.

This reality is seldom lost on a parent. As noted earlier, it is often the social characteristics of the families that utilize a public school that define its quality to the external world.⁴⁷⁸ It therefore is not surprising that homes in a “good” school district invariably command a premium. Under the current system, families *with the ability to pay* can secure access to these higher performing public schools through purchasing a home located in a geographically defined district. The RZAs and OERs extend this same principle of choice, or self-selection, to families who might relocate to the same district *but for* their limited financial means. Yet as the literature on the Gautreaux families suggests, the decision to relocate to the suburbs can carry its own nonpecuniary price by cutting a family off from its social and familial ties in the city.⁴⁷⁹ In effect, the Gautreaux parents paid an intangible “aspirational” premium that accrued to the

477. *Cf. supra* notes 344–48 and accompanying text (discussing the reasons given by the Gautreaux participants for their improved situation and literature attributing success to an expanded range of peer-interactions).

478. *See supra* note 460 and accompanying text. It is certainly possible to argue that school quality can be defined by high academic performance alone. However, in the seven-county MSA examined in this case study, high academic achievement on a district-wide level simply does not occur in high poverty areas. *See* Map 4. We are left to wonder whether high quality schools attract affluent families to the district, or whether a homogenous, middle-class agglomeration of families is likely to result in schools that achieve academically. Given the strong correlation between socioeconomic composition and education performance, at least in northeast Ohio, *see supra* Part II.D, a risk-adverse family likely will be well served—at least educationally—by residing in a relatively exclusive, homogenous suburb. Insofar as white families are skeptical of the quality of education when minority enrollment exceeds 50%, the exclusive, homogenous suburb provides similar refuge. *See generally* discussion of racial tipping in Part III.B.3.

479. *See* RUBINOWITZ & ROSENBAUM, *supra* note 8, at 44–45 (discussing high demand for entry into the Gautreaux despite fact that “moves [to the suburbs] could put relocatees at a substantial risk of racist encounters and a substantial distance from extended family, friends, churches, and other networks”).

benefit of their children in the form of improved educational and employment prospects.⁴⁸⁰

As a result, it is possible to argue that inner-city schools will be made worse off through the RZA or OER proposals since they would skim off many families who are especially motivated to make sacrifices and endure hardships for the benefit of their children. In response, it should be emphasized that in 1998–99, 47.4% of all students in Cuyahoga County attended one of five districts classified as academic emergency.⁴⁸¹ Moreover, these districts formed one contiguous land mass.⁴⁸² At present, the author is unaware of any educational reform that shows the promise of improving education proficiency in these districts to levels that rival the better performing suburbs. As a matter of policy, it is anomalous that students from poor but motivated families should be looked to as a bulwark for staving off further social and educational collapse when more affluent families shoulder none of this burden.

The empirical question that lurks beneath this situation is whether the benefits to students who are permitted to exit a failing district are outweighed by the negative effects that accrue to the remaining families. Although the negative effects may be difficult, if not impossible, to quantify, the Gautreaux research suggests that the life chances of students who exit will be altered dramatically for the better.⁴⁸³ Although the benefits of the former relationship may be difficult, if not impossible, to quantify, the Gautreaux research strongly suggests the existence of a “geography of opportunity” with significant economic and educational gains for students permitted to relocate.⁴⁸⁴ As noted at the outset, Cleveland typifies the urban education crisis, and it represents a status quo that is difficult to defend. Even with the reforms proposed by this article, children living in households mired in poverty and social problems will remain one of our society’s most intractable issues. At a minimum, shrinking the enrollment of failing urban schools through RZAs or OERs and establishing a system of merit-based metropolitan-wide magnet schools in the revitalized urban core, which would encourage residential in-fill in the central city and its adjacent suburbs, offers a much more optimistic vision of the future.

Finally, this article’s reliance on integration as an education reform represents a complete break from the desegregation era. In contrast to the mandatory busing that occurred in many cities throughout the nation, the reforms suggested by this article would seek integration by expanding the housing and/or

480. See *supra* Part III.A.1 and Table 10.

481. Calculated from data set forth in Appendix C. This figure rises to 55.4% of all students in Cuyahoga County when the category of academic watch is included.

482. See Map 3. This proposition holds true for the academic watch category as well.

483. RUBINOWITZ & ROSENBAUM, *supra* note 8, at 189 (discussing concept of a “geography of opportunity”)

484. RUBINOWITZ & ROSENBAUM, *supra* note 8, at 189 (discussing concept of a “geography of opportunity” based on improved educational and employment prospects of Gautreaux participants); see also Part III.A.1.

schooling options of low-income families. It also would expand choice through large-scale metropolitan magnet schools that would serve to weaken the link between housing and public schools that currently pushes many families to the more homogenous suburban fringe. However, these reforms would rely on state action in one critical respect: affluent political subdivisions would be denied the privilege of completely excluding low-income students from their schools. Yet unlike the desegregation era, this would be a political, rather than a judicial, decision. And as the earlier discussion on racial tipping suggests, exclusionary practices may not be driven by racial animus, but instead by the inability of housing markets to achieve stable integration.⁴⁸⁵ By spreading the burden more evenly throughout an entire metropolitan area, these same suburban communities would share equally in the regional benefits of solving, or at least mitigating, the urban education crisis.⁴⁸⁶

CONCLUSION

In the United States, it is hard to imagine an education reform debate without the existence of large, urban school districts that can be pointed to as abject proof of a serious crisis. Ironically, these same districts are invariably surrounded by a large ring of suburban schools that post excellent test scores, attendance, and graduation rates. Although curriculum, standards, and teacher accountability are frequently offered as solutions to the dismal performance of large urban districts, it is unrealistic to believe that these factors alone explain the continuum of educational performance that exists between central cities and affluent suburbs. This article suggests that an examination of a region's underlying demographic trends is ultimately a more fruitful line of inquiry.

The detailed case study method utilized by this article is intended to be diagnostic of educational failure and success in one metropolitan area. Yet relying on this rich factual context, several tenets of conventional wisdom have been dealt some serious blows. To date, popular perceptions of court-ordered desegregation and massive white flight have led critics to charge that reforms based on racial and socioeconomic integration are impractical, ineffective, and counterproductive. Cleveland often has been cited as a prototypical example of this misguided policy.

After identifying two primary theories of central city decline, this article presented overwhelming empirical evidence that the 1976 Cleveland desegregation order had a *de minimis* effect on the city's massive population loss and the failure of its public schools. The current educational crisis instead can be traced to several social, economic, and demographic trends that began in the

485. See Part III.B.3.

486. See *supra* text accompanying notes 368-72 (discussing how business leaders and school board members in Wake County, North Carolina, attribute the region's economic vitality to two decades of stable integration achieved in the local schools).

early 1900s and have played themselves out over several decades. This article also set forth clear statistical and visual proof that, at least in metropolitan Cleveland, the resulting racial and socioeconomic isolation has enormous predictive power in educational outcomes. It then provided strong *empirical* evidence from other parts of the country that (1) increased levels of racial and socioeconomic integration can improve the educational outcomes and life chances of society's most disadvantaged students, and (2) that such an initiative can be politically viable in a large metropolitan area.

Focusing again on the concrete problems of Cleveland, this article outlined a theoretical and empirical explanation for why market forces have failed to produce a stable equilibrium within the surrounding suburban school districts despite evidence that both blacks and whites would prefer an integrated environment. It suggested that, for both legal and normative reasons, stable equilibriums in both schools and neighborhoods can best be achieved by government mechanisms that rely exclusively on socioeconomic status rather than race. It then offered two legislative solutions to the problem of educational failure, which can serve as a starting point for further debate.

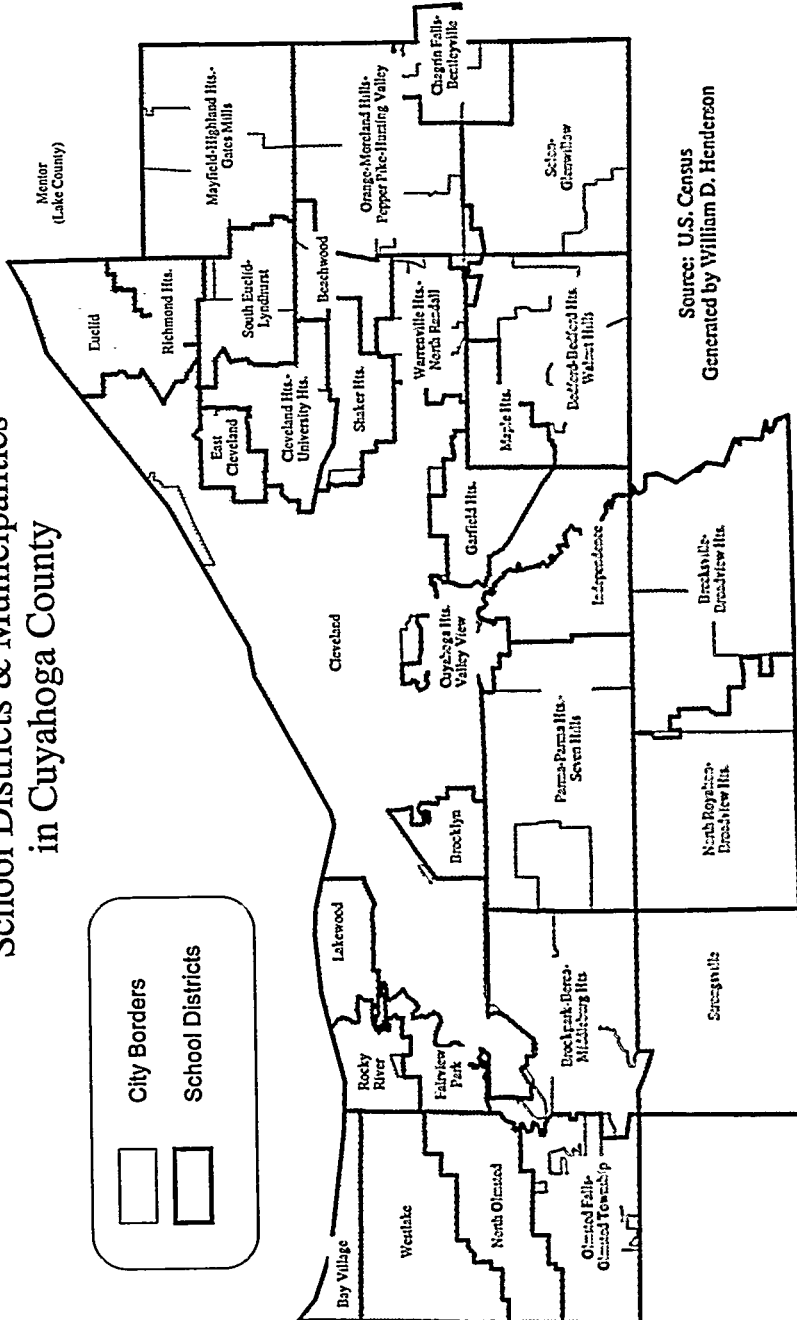
Ideally, this case study will serve as a baseline for examining demographic trends and educational outcomes in other parts of the country, many of them dramatically different from Cleveland. Certainly one important question to explore is whether the gentrification and urban renaissance of major cities like Chicago, Boston, and San Francisco have had any significant effect on the composition or performance of their public schools. A second enrichment might consider the impact of large scale immigration on schooling decisions and housing patterns. Insofar as demographic patterns result in racial and socioeconomic isolation, this article concludes that we can expect to see continued educational failure. Following a fairly precise legal roadmap, state legislation can remedy this situation in a way that captures the full social benefit of improved educational outcomes while spreading a relatively light burden across an entire metropolitan area. Having comprehended the problem, we no longer need to shrink from the task.

APPENDIX A: MAPS

Map 1 Seven County Metropolitan Area



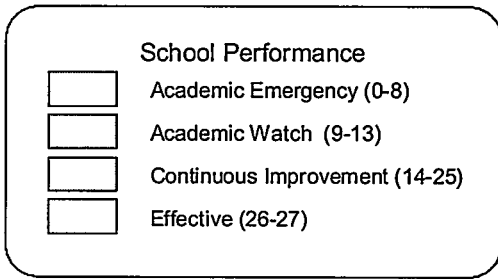
Map 2 School Districts & Municipalities in Cuyahoga County



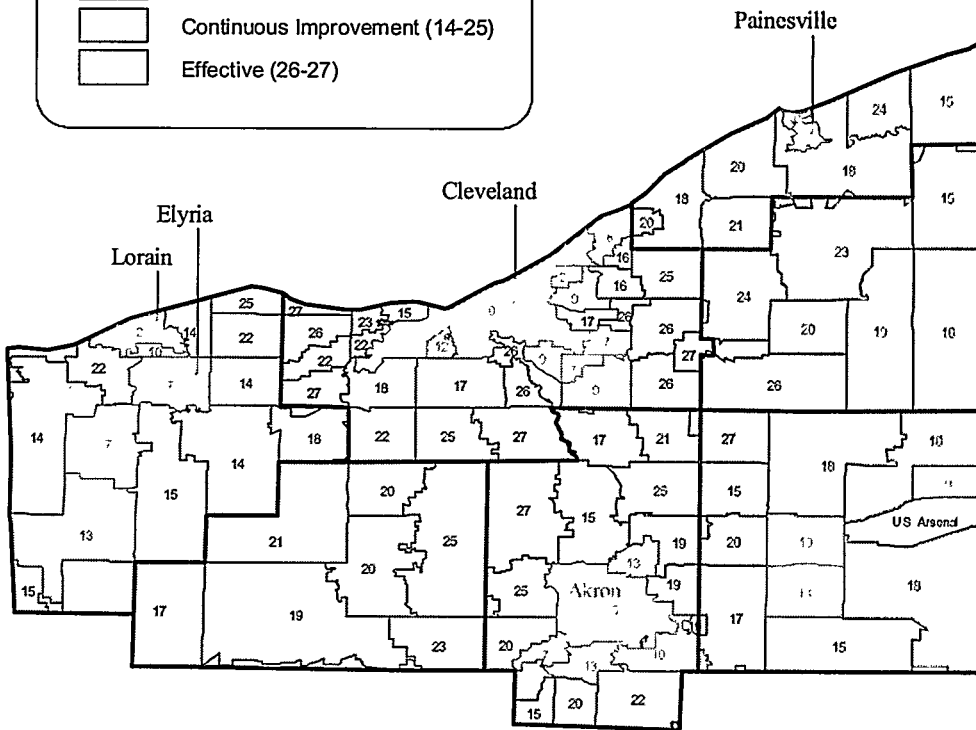
Source: U.S. Census
Generated by William D. Henderson

Map 3

1998-99 School Performance in Seven County MSA

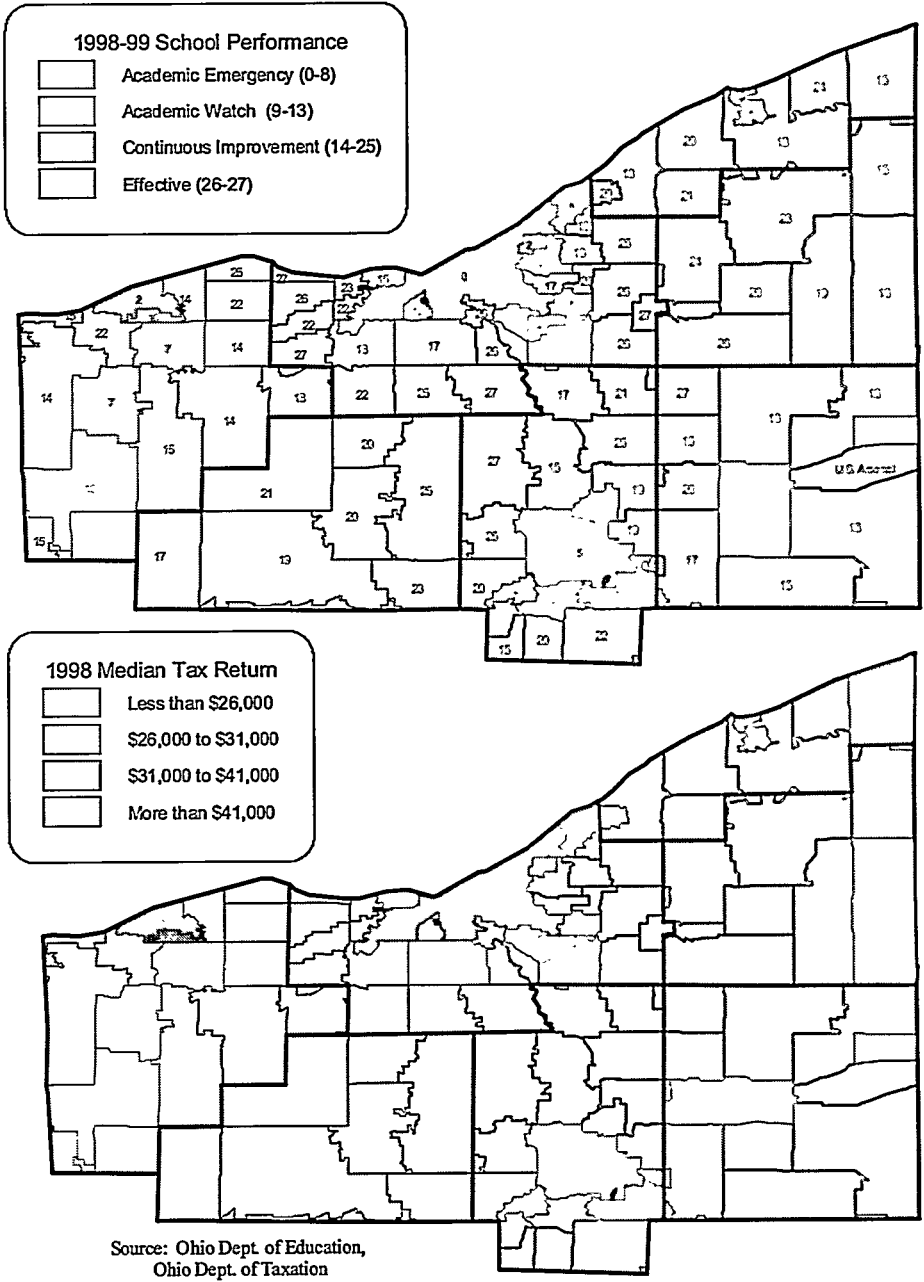


Labeled districts encompass central cities with declining industrial sector

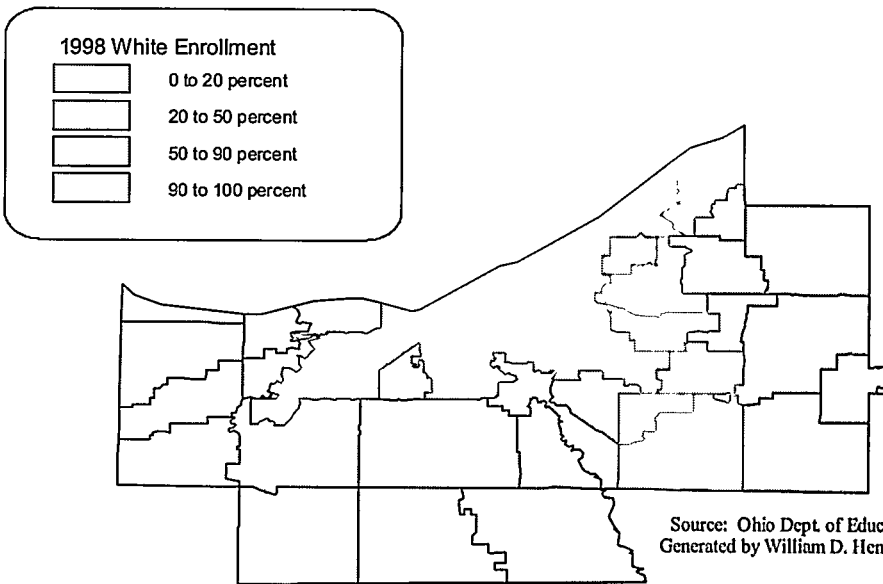
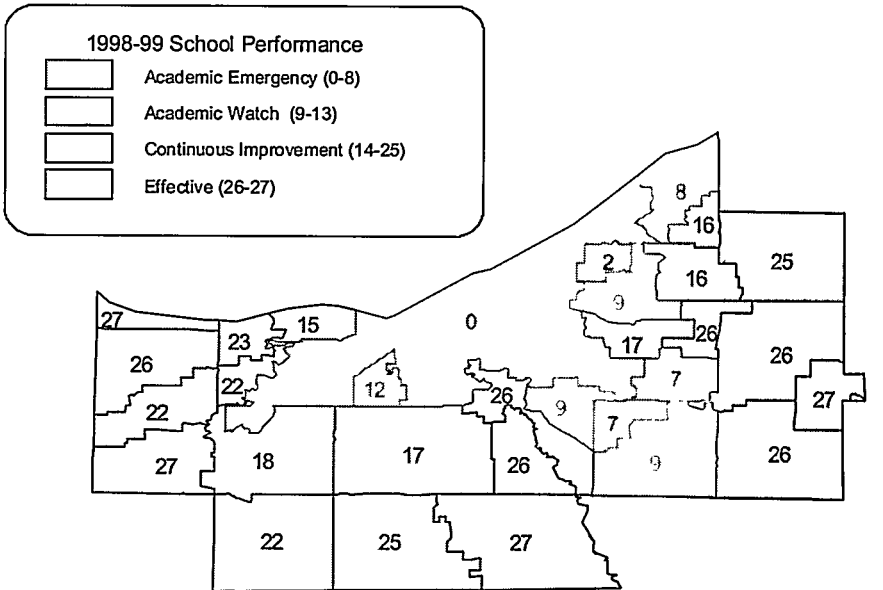


Sources: U.S. Census, Ohio Dept. of Education
Generated by William D. Henderson

Map 4 School Districts in Seven County MSA by Performance and Socioeconomics

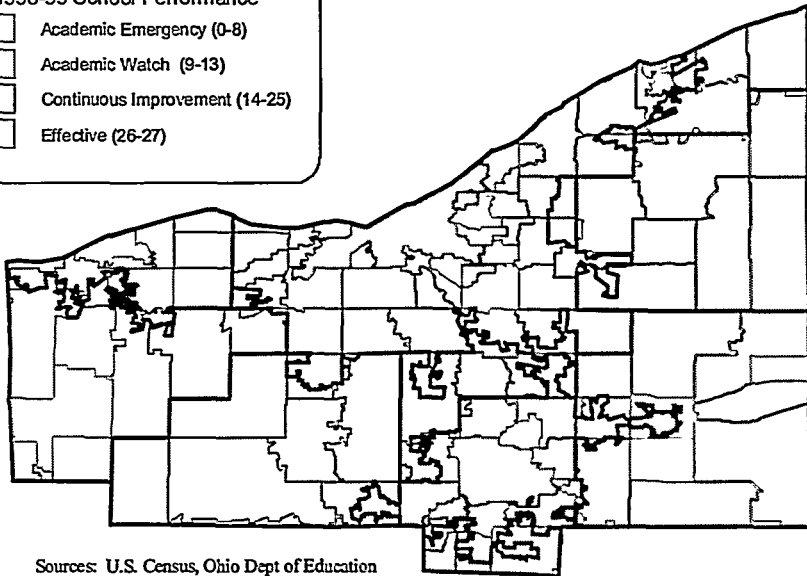
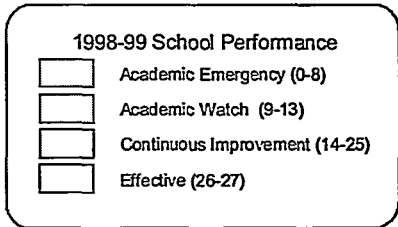
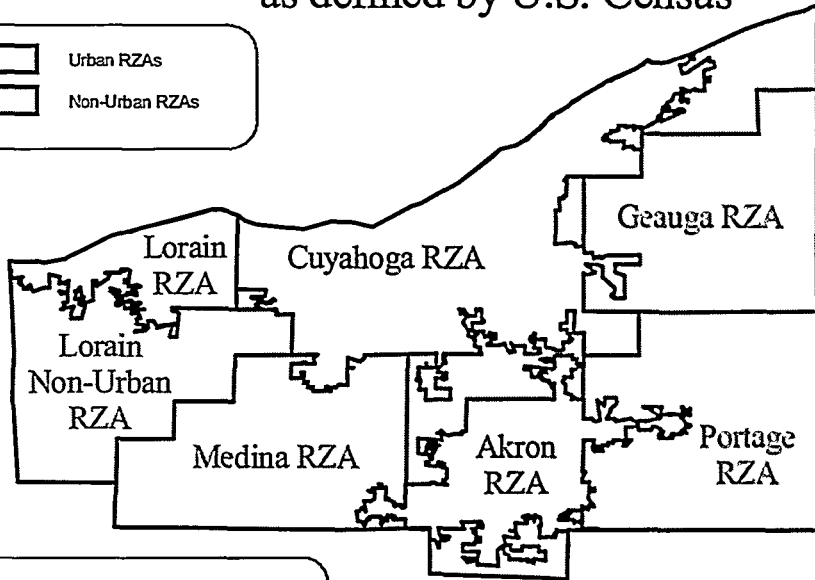
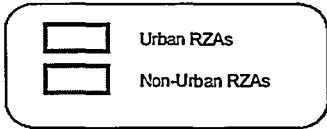


Map 5 School Districts in Cuyahoga County by Performance and White Enrollment



Source: Ohio Dept. of Education
Generated by William D. Henderson

Map 6 Regionalized Zoning Authorities Using Urbanized Areas as defined by U.S. Census



Sources: U.S. Census, Ohio Dept of Education
Generated by William D. Henderson

APPENDIX B
CLEVELAND SCHOOL ENROLLMENT, 1970-98
(PAGE 1 OF 2)

Year	Total Enrollment	% Change	White	% Change	Black
1970-71	150,707		61,340		86,371
1971-72	147,367	-2.3%	60,100	-2.1%	83,926
1972-73	144,520	-2.0%	58,548	-2.7%	82,562
1973-74	138,454	-4.4%	55,445	-5.6%	79,170
1974-75	131,812	-5.0%	51,500	-7.7%	75,978
1975-76	128,127	-2.9%	50,192	-2.6%	73,547
1976-77	122,727	-4.4%	46,448	-8.1%	71,746
1977-78	114,979	-6.7%	41,416	-12.1%	69,081
1978-79	104,676	-9.8%	33,964	-21.9%	66,380
1979-80	92,558	-13.1%	29,034	-17.0%	59,607
1980-81	80,767	-14.6%	22,543	-28.8%	54,445
1981-82	75,825	-6.5%	19,440	-16.0%	52,535
1982-83	79,525	4.7%	21,317	8.8%	54,029
1983-84	75,732	-5.0%	19,671	-8.4%	52,032
1984-85	74,370	-1.8%	19,004	-3.5%	51,290
1985-86	73,641	-1.0%	18,135	-4.8%	51,160
1986-87	73,263	-0.5%	17,863	-1.5%	51,051
1987-88	72,639	-0.9%	17,324	-3.1%	50,822
1988-89	72,116	-0.7%	16,968	-2.1%	50,408
1989-90	70,694	-2.0%	17,303	1.9%	48,245
1990-91	70,019	-1.0%	14,770	-17.1%	49,669
1991-92	71,634	2.3%	16,307	9.4%	49,613
1992-93	70,993	-0.9%	15,781	-3.3%	49,250
1993-94	73,633	3.6%	16,440	4.0%	50,950
1994-95	73,803	0.2%	15,608	-5.3%	51,776
1995-96	74,380	0.8%	15,188	-2.8%	52,435
1996-97	74,026	-0.5%	15,010	-1.2%	52,117
1997-98	76,500	3.2%	15,237	1.5%	54,140

Sources: Ohio Dep't of Educ.; EVERETT CATALDO, ENROLLMENT DECLINE
AND SCHOOL DESEGREGATION IN CLEVELAND (1982).

APPENDIX B: CLEVELAND SCHOOL ENROLLMENT, 1970-98
(PAGE 2 OF 2)

% Change	Other Minorities	% Change	% White	% Black	% Other
	2,996		40.7%	57.3%	2.0%
-2.9%	3,341	10.3%	40.8%	57.0%	2.3%
-1.7%	3,410	2.0%	40.5%	57.1%	2.4%
-4.3%	3,839	11.2%	40.0%	57.2%	2.8%
-4.2%	4,334	11.4%	39.1%	57.6%	3.3%
-3.3%	4,388	1.2%	39.2%	57.4%	3.4%
-2.5%	4,533	3.2%	37.8%	58.5%	3.7%
-3.9%	4,482	-1.1%	36.0%	60.1%	3.9%
-4.1%	4,332	-3.5%	32.4%	63.4%	4.1%
-11.4%	3,917	-10.6%	31.4%	64.4%	4.2%
-9.5%	3,779	-3.7%	27.9%	67.4%	4.7%
-3.6%	3,850	1.8%	25.6%	69.3%	5.1%
2.8%	4,179	7.9%	26.8%	67.9%	5.3%
-3.8%	4,029	-3.7%	26.0%	68.7%	5.3%
-1.4%	4,076	1.2%	25.6%	69.0%	5.5%
-0.3%	4,346	6.2%	24.6%	69.5%	5.9%
-0.2%	4,349	0.1%	24.4%	69.7%	5.9%
-0.5%	4,493	3.2%	23.8%	70.0%	6.2%
-0.8%	4,740	5.2%	23.5%	69.9%	6.6%
-4.5%	5,146	7.9%	24.5%	68.2%	7.3%
2.9%	5,580	7.8%	21.1%	70.9%	8.0%
-0.1%	5,714	2.3%	22.8%	69.3%	8.0%
-0.7%	5,962	4.2%	22.2%	69.4%	8.4%
3.3%	6,243	4.5%	22.3%	69.2%	8.5%
1.6%	6,419	2.7%	21.1%	70.2%	8.7%
1.3%	6,757	5.0%	20.4%	70.5%	9.1%
-0.6%	6,899	2.1%	20.3%	70.4%	9.3%
3.7%	7,123	3.1%	19.9%	70.8%	9.3%

Sources: Ohio Dep't of Educ.; EVERETT CATALDO, ENROLLMENT DECLINE AND SCHOOL DESEGREGATION IN CLEVELAND (1982).

APPENDIX C
DATA ON SCHOOL DISTRICTS IN CUYAHOGA COUNTY, PERFORMANCE, INCOME,
PER PUPIL SPENDING, RACE
(PAGE 1 OF 2)

<i>School District</i>	<i>1986 Avg. Federal AGI</i>	<i>1998 Avg. Federal AGI</i>	<i>1998 State Rank by Avg. Income</i>	<i>% Change 1986 to 1998</i>	<i>1998 Median Ohio AGI</i>
CHAGRIN FALLS EX. VII. S.D.	\$47,029	\$110,144	8	134%	\$48,339
BAY VILLAGE CITY S.D.	\$39,930	\$71,149	27	78%	\$47,794
BRECKSVILLE- BROADVIEW HTS. CITY S.D.	\$32,892	\$64,507	37	96%	\$43,758
CUYAHOGA HEIGHTS LOCAL S.D.	\$26,381	\$44,043	117	67%	\$33,215
BEACHWOOD CITY S.D.	\$52,636	\$103,778	9	97%	\$44,302
ORANGE CITY S.D.	\$73,643	\$173,269	3	135%	\$57,928
INDEPENDENCE LOCAL S.D.	\$29,657	\$54,839	55	85%	\$38,722
WESTLAKE CITY S.D.	\$39,860	\$73,024	24	83%	\$41,960
OLON CITY S.D.	\$35,946	\$73,100	22	103%	\$41,962
OLMSTED FALLS CITY S.D.	\$27,217	\$43,289	128	59%	\$35,465
MAYFIELD CITY S.D.	\$30,106	\$61,429	41	104%	\$32,705
NORTH ROYALTON CITY S.D.	\$28,419	\$48,870	77	72%	\$40,971
ROCKY RIVER CITY S.D.	\$37,027	\$68,868	29	86%	\$39,568
STRONGSVILLE CITY S.D.	\$33,385	\$56,021	52	68%	\$46,432
FAIRVIEW PARK CITY S.D.	\$32,297	\$47,778	86	48%	\$36,345
NORTH OLMS TED CITY S.D.	\$27,998	\$42,167	139	51%	\$38,054
BEREA CITY S.D.	\$24,988	\$37,811	213	51%	\$31,690
SHAKER HEIGHTS CITY S.D.	\$55,744	\$110,991	7	99%	\$44,215
PARMA CITY S.D.	\$23,934	\$36,282	258	52%	\$30,666
SOUTH EUCLID-LYNDHURST CITY S.D.	\$29,540	\$46,858	93	59%	\$34,877
RICHMOND HEIGHTS LOCAL S.D.	\$27,916	\$45,785	101	64%	\$35,931
LAKESWOOD CITY S.D.	\$25,662	\$40,962	152	60%	\$30,231
BROOKLYN CITY S.D.	\$22,497	\$32,936	393	46%	\$28,136
CLEVELAND HTS.-UNIV. HTS. CITY S.D.	\$31,641	\$52,489	65	66%	\$39,115
BEDFORD CITY S.D.	\$22,908	\$33,996	344	48%	\$29,400
GARFIELD HEIGHTS CITY S.D.	\$21,764	\$31,868	448	46%	\$28,486
EUCLID CITY S.D.	\$22,915	\$33,090	387	44%	\$28,481
WARRENSVILLE HEIGHTS CITY S.D.	\$23,068	\$29,356	541	27%	\$25,932
MAPLE HEIGHTS CITY S.D.	\$22,080	\$32,332	423	46%	\$28,627
EAST CLEVELAND CITY S.D.	\$18,440	\$24,665	609	34%	\$19,141
CLEVELAND CITY S.D.	\$18,756	\$25,844	605	38%	\$21,015

APPENDIX C: DATA ON SCHOOL DISTRICTS IN CUYAHOGA COUNTY,
PERFORMANCE, INCOME, PER PUPIL SPENDING, RACE
(PAGE 2 OF 2)

98-99 Standards Passed	1998 Enrollment	1998-99 Per Pupil Expenditure	98-99 Status	White	Black	Other
27	1,875	\$7,911	Effective	98.8%	0.4%	0.8%
27	2,417	\$7,581	Effective	99.4%	0.2%	0.4%
27	4,053	\$7,484	Effective	95.9%	0.3%	3.8%
26	792	\$13,401	Effective	98.8%	0.1%	1.1%
26	1,629	\$13,151	Effective	85.0%	9.9%	5.1%
26	2,261	\$11,608	Effective	79.1%	12.7%	8.2%
26	979	\$9,847	Effective	97.5%	0.3%	2.2%
26	3,663	\$8,656	Effective	98.9%	0.4%	0.7%
26	4,885	\$8,530	Effective	88.2%	5.5%	6.4%
26	2,989	\$6,933	Effective	97.5%	1.0%	1.5%
25	4,229	\$8,237	Cont. Improvement	89.0%	4.6%	6.5%
25	4,245	\$6,789	Cont. Improvement	96.4%	0.4%	3.2%
23	2,341	\$8,288	Cont. Improvement	95.4%	0.3%	4.4%
22	6,820	\$7,717	Cont. Improvement	93.6%	1.2%	5.3%
22	2,077	\$7,582	Cont. Improvement	95.1%	1.2%	3.7%
22	5,009	\$7,143	Cont. Improvement	94.2%	0.9%	4.9%
18	7,919	\$8,180	Cont. Improvement	91.8%	3.7%	4.6%
17	5,637	\$10,891	Cont. Improvement	42.3%	51.2%	6.6%
17	13,158	\$7,719	Cont. Improvement	94.3%	1.8%	4.0%
16	4,442	\$8,947	Cont. Improvement	77.5%	18.9%	3.6%
16	1,000	\$7,849	Cont. Improvement	57.6%	34.0%	8.4%
15	7,459	\$7,117	Cont. Improvement	92.7%	2.2%	5.0%
12	1,349	\$9,534	Academic Watch	93.0%	1.5%	5.5%
9	7,322	\$9,979	Academic Watch	25.5%	70.0%	4.5%
9	4,108	\$9,084	Academic Watch	40.7%	55.5%	3.8%
9	3,444	\$6,678	Academic Watch	82.8%	14.0%	3.2%
8	5,917	\$8,122	Emergency	49.0%	48.9%	2.1%
7	3,069	\$8,079	Emergency	0.0%	100.0%	0.0%
7	3,931	\$6,225	Emergency	30.5%	64.8%	4.7%
2	6,299	\$9,471	Emergency	0.0%	99.8%	0.2%
0	76,239	\$7,718	Emergency	19.9%	70.7%	9.4%

Source: Ohio Dep't of Educ.; Ohio Dep't of Taxation.

Appendix D: Population of Cleveland, Surrounding Counties, and MSA, 1940-2000

Census	County							Seven- County MSA	
	Cleveland	Cuyahoga	Geauga	Lake	Lorain	Medina	Portage	Summit	
1940	878,336	1,217,250	19,430	50,020	112,390	33,034	46,660	339,405	
1950	900,429	1,389,532	26,646	75,979	148,162	40,417	63,954	410,032	
1960	876,050	1,647,895	47,573	148,700	217,500	65,315	91,798	513,569	
1970	750,879	1,721,300	62,977	197,200	256,843	82,717	125,868	553,371	
1980	573,822	1,498,400	74,474	212,801	274,909	113,150	135,856	524,472	
1990	505,616	1,412,140	81,129	215,499	271,126	122,354	142,585	514,990	
2000	478,403	1,393,978	90,895	227,511	284,664	151,905	152,061	542,889	
Change, 1940 to 2000	-45.5%	14.5%	367.8%	354.8%	153.3%	359.8%	225.9%	60.0%	56.4%

Source: U.S. Census