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Recommended Citation

Barbara L. Bezdek, *Policing that Perpetuates Baltimore's Islands of Poverty and Despair*, 16 U. Md. L.J. Race Relig. Gender & Class 153 (2016).

Available at: <http://digitalcommons.law.umaryland.edu/rrgc/vol16/iss2/3>

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POLICING THAT PERPETUATES BALTIMORE'S ISLANDS OF POVERTY AND DESPAIR

Barbara L. Bezdek*

Freddie Gray lived and died in the Sandtown neighborhood in west Baltimore, a 72-block area whose dismal, toxic, and episodically deadly physical and social realities should not be tolerable as part of the American landscape.¹ More than one-third of its residents live below the poverty line, and 20% are unemployed.² The unconstitutional policing practices detailed in the U.S. Department of Justice Report contribute to this economic distress.³ Maryland taxpayers spend nearly \$290 million each year to incarcerate Baltimore residents who make up one-third of all prisoners in the state.⁴ The majority of Maryland's state prison population hail from, and return to, Sandtown, according to the Justice Policy Institute.⁵

Baltimore has over fifty census tracts with similar significant numbers of impoverished people, living hard lives entirely separated from the city's idyllic neighborhoods.⁶ Yes, viewers of national news

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This essay is part of a project supported by a research grant from the University of Maryland Carey School of Law.

¹ See Yvonne Wenger, *Saving Sandtown-Winchester: Decade-Long, Multimillion-dollar Investment Questioned*, THE BALTIMORE SUN (May 10, 2015), <http://www.baltimoresun.com/news/maryland/baltimore-city/west-baltimore/bs-md-ci-sandtown-winchester-blight-20150510-story.html>.

² Leon Neyfakh, *Freddie Gray's Broken Neighborhood*, SLATE (Apr. 27, 2015, 5:02 PM), http://www.slate.com/articles/news_and_politics/crime/2015/04/freddie_gray_death_a_closer_look_at_the_tragically_impoverished_and_violent.html.

³ See CIVIL RIGHTS DIV., U.S. DEP'T OF JUSTICE, INVESTIGATION OF THE BALTIMORE CITY POLICE DEPARTMENT 3–11 (Aug. 10, 2016), <https://www.justice.gov/opa/file/883366/download> [hereinafter *DOJ Report*].

⁴ Justin Fenton, *Report: Sandtown-Winchester Leads State in Number of People Incarcerated*, THE BALTIMORE SUN (Feb. 25, 2015, 8:57 PM), <http://www.baltimoresun.com/news/maryland/crime/bs-md-ci-baltimore-incarceration-report-20150224-story.html>.

⁵ JUSTICE POLICY INSTITUTE, THE RIGHT INVESTMENT? CORRECTIONS SPENDING IN BALTIMORE CITY 2 (Feb. 2015), http://www.justicepolicy.org/uploads/justicepolicy/documents/rightinvestment_design_2.23.15_final.pdf.

⁶ Joe Cortright, *Lost in Place*, CITYREPORTS (Sept. 12, 2014), <http://cityobservatory.org/lost-in-place> (2010 Census data showed 55 high-poverty census tracts in Baltimore).

outlets may be surprised to learn, Baltimore has innumerable *great* neighborhoods: these are located in a large contiguous swath of Baltimore's northern areas, together with pockets in central, southern and southeastern quarters of the city. They offer an amenity-rich life at costs that compare favorably to any East Coast city.⁷ In those idyllic neighborhoods, middle-class households and young professionals can buy large Victorians with wraparound porches and yards, take advantage of world-class museums, symphony, and theatre, see first-run films, enjoy a robust local foodie and brewer culture, music and art scenes, access superb medical care, and raise their kids with the prospect of enrolling in world-renowned universities.⁸

Baltimore's policing is integral in maintaining the chasm between the two profoundly separate Baltimores. Why, if a child is born to a family in Sandtown, is he so very likely to be stuck in that place? Because of the legal and political arrangements chosen by those who call the shots. We have permitted the concentration of an urban underclass, and neighborhoods of subcitizens consigned to identifiable zones of enduring poverty, drug mercantilism, violence, fear, despair – and scant chance to escape.

Policing is the government's sanctioned use of force to maintain order, which is legitimate as long as it is for the benefit of the health, safety and welfare of the *general* public – that is, of all the people, not excluding any groups nor preferring those who reside in select neighborhoods. Yet the DOJ Report findings clearly delineate not only “two Baltimores,” but also two entirely different modes of policing: Officer Friendly in higher-wealth, whiter precincts, and sweeps and savagery in Baltimore's desperately poor, predominantly Black parts of town.⁹ The DOJ Report raises the specter that Baltimore, like many other U.S. cities, has created a “hereditary subordinate caste of persons who are subjected to American law”, but who are not permitted to belong fully to American society.¹⁰

⁷ See Alec MacGillis, *My Baltimore Bargain*, SLATE (May 4, 2015, 11:25 AM), http://www.slate.com/articles/news_and_politics/politics/2015/05/my_baltimore_neighborhood_is_a_wonderful_place_to_live_it_is_made_possible.html.

⁸ *Id.*

⁹ DOJ Report, *supra* note 3, at 4–5.

¹⁰ See *id.*; Garrett Epps, *The Citizenship Clause: A Legislative History*, 60 AM. U. L. REV. 331, 387 (2010) (explaining citizenship as the necessary cure to slavery

Neighborhoods, as well as households, suffer from profound and persistent poverty. Baltimore has inscribed these conditions of concentrated poverty on dozens of its three hundred neighborhoods.¹¹ In Baltimore, one's actual location literally defines one's social position. Neighborhoods afflicted with cumulative disadvantages cause poor outcomes for their residents. Geography is, if not entirely destiny, then the profound predicate of residents' subordination, which results from living away from quality schools, entry-level jobs, and the informal job networks often essential to getting one foot on the ladder.¹² Where you live determines what happens to you and your family: where your kids can go to school, your access to employment and to health care, your exposure to crime and to police, whether the city cleans and repairs your streets, whether the housing stock increases in value or slowly sinks into disrepair and abandonment.

Poor people are not grouping themselves together according to their shared personal attributes or choices, as some suggest; the starkest elements of urban poverty are likely to be generational. The disadvantages of living in poor, Black neighborhoods—like the advantages of living in affluent, white neighborhoods—are inherited.¹³ William Julius Wilson's studies revealed that, in the 1970s, most Black families who lived in the poorest neighborhoods continued to live in similarly poor neighborhoods a generation later.¹⁴ This pattern continues: sociologist Patrick Sharkey has found that more than 70% of Black children who are raised in the poorest quartile of American neighborhoods will continue to so reside as adults.¹⁵ Baltimore's

provided by the Thirteenth Amendment to prevent the reemergence of local systems of exploitation).

¹¹ See *Percent of Family Households Living Below the Poverty Line 2014*, BALTIMORE NEIGHBORHOOD INDICATORS ALLIANCE, <http://bniajfi.org/indicators/Census%20Demographics/hhpov> (last visited Dec. 16, 2016).

¹² WILLIAM J. WILSON, *MORE THAN JUST RACE: BEING BLACK AND POOR IN THE INNER CITY* 46–48 (2010).

¹³ PATRICK SHARKEY, *STUCK IN PLACE: URBAN NEIGHBORHOODS AND THE END OF PROGRESS TOWARD RACIAL EQUALITY*, 9–10 (2013).

¹⁴ See generally WILSON, *supra* note 12.

¹⁵ See SHARKEY, *supra* note 13.

children face the worst odds of escaping poverty of the nation's 100 largest jurisdictions.¹⁶

That is all old news, forgotten but not gone. In 1965, President Lyndon Johnson warned the U.S. against cutting off the urban poor, because in doing so, "we shall effectively cripple each generation to come."¹⁷ Since then, almost two generations of poor African Americans have been subjected to the "War on Crime", in which policing and mass incarceration have replaced anti-poverty measures as the primary governmental response to the conditions of the Black poor.

This condition of segregation by geography and life chances has an irrefutable racial composition. This transgenerational stuckness in high-poverty neighborhoods holds for poor Black Americans, but not for poor white Americans. African Americans are disproportionately represented in the numbers of poor people, and extremely poor people, in this country. Too rarely is it acknowledged that in raw numbers, most American poor people are white. People of all races suffer from the marginality created by changes in the industrial and global economy, and whites, Hispanics, and Native Americans all are victims of class subordination. Perhaps it is mass media that induces Americans to conflate Black people with poverty, despite the fact that U.S. society encompasses a sizeable and sustained Black middle class, professional class, and wealthy elite. Nevertheless, the largest racial group in urban neighborhoods of cumulative and generational disadvantage remains African Americans.

For the Black subset of extremely and persistently poor Americans, intentional racial oppression established the structural causes of their household and neighborhood conditions, which were then exacerbated by economic and technological changes in the industrial and information ages that succeeded slave labor, civil war, and Reconstruction. The civil rights enactments in the mid-20th

¹⁶ Raj Chetty & Nathaniel Hendren, *The Impacts of Neighborhoods on Intergenerational Mobility: Childhood Exposure Effects and County-Level Estimates*, THE EQUALITY OF OPPORTUNITY PROJECT (Apr. 2015), http://www.equality-of-opportunity.org/images/nbhds_exec_summary.pdf.

¹⁷ *America's Wasted Blacks*, THE ECONOMIST 11–12 (Mar. 30, 1991).

Century have not eliminated race-based discrimination. With respect to the vectors of American life that influence economic participation and well-being, Black Americans still encounter discrimination in housing, lending, acquisition of goods and necessities, as well as in education and employment. The resulting wealth gap by race has steadily increased over the last thirty years, and if present trends continue, African Americans may not catch up for two more centuries.¹⁸

In deeply poor neighborhoods, discrimination is not merely private; it is committed by public actors wielding public powers pursuant to public policies. African Americans are subjected to racial profiling, excessive policing and undue force, discriminatory exercises of discretion in school suspensions,¹⁹ arrest, bail, and incarceration. Poor Black neighborhoods are denied the meaningful police protection, emergency services, and the everyday municipal services of trash pickup.²⁰ This cumulus of public discrimination reinforces and perpetuates the depressed economic fortunes of neighborhoods like Sandtown, and perpetuates their social and spatial isolation.

¹⁸ DEDRICK ASANTE-MUHAMMAD ET AL., THE EVER-GROWING GAP, CFED & INSTITUTE FOR POLICY STUDIES 6, (Aug. 2016), http://cfed.org/policy/federal/The_Ever_Growing_Gap-CFED_IPS-Final.pdf (noting that in 2013, average Black family wealth was \$85,000 compared to average white family wealth of \$656,000; and that, if average Black family wealth continues to grow at the same pace it has over the past three decades, it would take Black families 228 years to amass the same amount of wealth White families have today—17 years shorter than the 245-year span of slavery in this country).

¹⁹ OFFICE OF CIVIL RIGHTS, U.S. DEP'T OF EDUC., CIVIL RIGHTS DATA COLLECTION: DATA SNAPSHOT (SCHOOL DISCIPLINE) 7 (Mar. 21, 2014), <http://ocrdata.ed.gov/Downloads/CRDC-School-Discipline-Snapshot.pdf>; see also Jerrad M. Mills, *From the Principal's Office to Prison: How America's School Discipline System Defies Brown*, 50 U.S.F. L. Rev. 529, 533–39 (2016) (discussing data showing disproportionate suspension and expulsion for Black students, beginning as early as preschool, and demonstrating its basis in vague and discretionary standards).

²⁰ Litigation claiming municipalities provide inferior services to minority communities dates back at least to the 1960s and continues to the present day. See Robert G. Schwemm, Cox, Halprin and *Discriminatory Municipal Services Under the Fair Housing Act*, 41 Ind. L. Rev. 717 (2008); Clayton P. Gillette, *Review: Equality and Variety in the Delivery Of Municipal Services*, 100 HARV. L. REV. 946 (1987).

Discrimination led to segregation, but segregation reproduces the interracial economic disparities that incite more discrimination.²¹

Lack of wealth is attended by lack of political power: research shows that the political process is far more responsive to the claims of the privileged. Who is surprised to learn that recent studies show government officials are far more likely to support the policy preferences of the wealthy than those of the poor.²² Just as wealth and political power are mutually reinforcing, so are economic inequality and political inequality mutually reinforcing.

The conditions in Baltimore's over-policed and under-resourced neighborhoods are legacies of past public and private discrimination, patrolled physically by the police as detailed by the DOJ, and perpetuated by racialized economic segregation.²³ BPD's repugnant racist practices are a critical factor further degrading human life in Baltimore's already-resource-abandoned neighborhoods, exacerbating diminished economic opportunities for generations of residents.²⁴

The root cause of the reality that poor minorities are more often stuck in poor geographies is not because economic growth has always been geographically uneven. This hellish reality is a function of political arrangements: decisions that put poor and minority residents out of sight and out of mind through discriminatory housing, development, land-use, infrastructure, investment and zoning policies. Racialized, socio-economic exclusion is cemented into our built-environment. These include decisions that reinforce the separation of "nice" neighborhoods and ghettos, that make local property-tax wealth the determinant of school quality, and of municipal services and

²¹ DOUGLAS S. MASSEY & NANCY A. DENTON, *AMERICAN APARTHEID: SEGREGATION AND MAKING OF THE UNDERCLASS* 109 (1993).

²² Lawrence R. Jacobs & Theda Skocpol, *American Democracy in an Era of Rising Inequality*, in *INEQUALITY AND AMERICAN DEMOCRACY* 1, 3 (Lawrence R. Jacobs & Theda Skocpol eds., 2005) [hereinafter *Era of Rising Inequality*]; see *America's Wasted Blacks*, supra note 21, at 9–16 (examining the racial disparities that exist in American society); *BLACK WEALTH/WHITE WEALTH: A NEW PERSPECTIVE ON RACIAL INEQUALITY* 2–3 (Melvin Oliver & Thomas M. Shapiro eds., 2006).

²³ *DOJ Report*, supra note 3, at 7–8.

²⁴ See *id.*

neighborhood-enhancing amenities. These arrangements make all of us stakeholders in undemocratic exclusion, and the perpetuation of inequality.²⁵ Differential policing reinforces these psycho-spatial boundaries.

WHERE DO WE GO FROM HERE?

In the months following Freddie Gray's death and Baltimore's writhing responses, reporters uncovered the fact that twenty-five years prior, then-Mayor Schmoke had pioneered an early public-private effort to rejuvenate Sandtown and improve the lot of its residents. One account snarked, "*Why couldn't \$130 million transform one of Baltimore's Poorest Neighborhoods?*"²⁶ Many aspects of that early attempt at comprehensive community development were novel in 1990, and promising, and while hundreds of lives were improved on metrics of health, education, and employment, and 300 houses were renovated by Habitat-Sandtown, the fundamental character of the neighborhood as racially and economically segregated, did not change much.²⁷

Why? Because it did not address the legacy inequalities that have been engrained in the place *and its relationship to the city*.²⁸

²⁵ Stephen Macedo, *Property-Owning Plutocracy: Inequality and American Localism*, in JUSTICE AND THE AMERICAN METROPOLIS 33 (Clarissa R. Hayward & Todd Swanstrom eds., 2011).

²⁶ Michael S. Rosenwald & Michael A. Fletcher, *Why Couldn't \$130 Million Transform One of Baltimore's Poorest Places?*, THE WASH. POST (May 2, 2015), https://www.washingtonpost.com/local/why-couldnt-130-million-transform-one-of-baltimores-poorest-places/2015/05/02/0467ab06-f034-11e4-a55f-38924fca94f9_story.html?utm_term=.01fe86627a55.

²⁷ STEFANIE DELUCA & PETER ROSENBLATT, SANDTOWN-WINCHESTER—BALTIMORE'S DARING EXPERIMENT IN URBAN RENEWAL: 20 YEARS LATER, WHAT ARE THE LESSONS LEARNED?, 26 THE ABELL REPORT 1 (Nov. 2013), <http://www.abell.org/sites/default/files/publications/arn1113.pdf>; see also Barry Yeoman, *Left Behind in Sandtown*, BARRYYEOMAN.COM (Jan. 1, 1998), <http://barryyeoman.com/1998/01/left-behind-in-sandtown-baltimore>.

²⁸ Longer list of policy dimensions is beyond the scope of this essay, but includes: the racially subordinating intent and effects of New Deal legislation regarding minimum wage occupations and exercises of the federal spending power, including federal social welfare and housing programs, that embedded racial inequality in the economic gains of the late 20th century; the stark withdrawal of federal funds from cities; the federal government's periodic withdrawal from exercising its powers to overcome the resistance of private, state or local government actors, post-

Attending to systemic racial inequality helps us focus on the relationship between race and the basic structures of society—the way that major social, political and economic institutions all function together in distributing society’s benefits and burdens.

It is imperative to dismantle what sustains the systemic nature of racialized distribution. Locking young people up in an opportunity-desert, shackling them with decrepit housing, inadequate education, lead paint poisoning, broken streets and incipient violence, while dooming their brothers and parents to unemployment through the policing and incarceration practices of the New Jim Crow – has got to stop.

Where do we go from here? One policy approach to the intersectional disadvantages of the health, safety, education, income and transit deficits of deeply segregated and disinvested neighborhoods like Sandtown is to help people to leave them. Mobility programs, like the successful Baltimore Regional Housing Partnership, offers families the chance of a lifetime, to flee and resettle in neighborhoods of opportunity.²⁹ Studies of several programs around the country document that the benefits for children in relocating families are often remarkable.³⁰ Excellent mobility programs like this one should be celebrated and expanded.

Reconstruction, and in the enforcement of the civil rights laws in employment, voting rights, a discrimination in the sale, rental or financing of real estate—until the Obama administration. State programs for spending and targeting economic opportunities, e.g. contracting and procurement and tax incentives—which cumulate with longstanding capital disadvantage of African Americans in opening their own firms.

²⁹ *Baltimore Housing Mobility Program*, BALTIMORE REGIONAL HOUSING PARTNERSHIP, <http://www.brhp.org> (last visited Dec. 16, 2016).

³⁰ See e.g. RAJ CHETTY, NATHANIEL HENDREN, & LAWRENCE F. KATZ, THE EFFECTS OF EXPOSURE TO BETTER NEIGHBORHOODS ON CHILDREN: NEW EVIDENCE FROM THE MOVING TO OPPORTUNITY EXPERIMENT, NAT’L BUREAU OF ECONOMIC RESEARCH (May 2015), www.nber.org/mtopublic/final/MTO_IRS_2015.pdf (finding that young boys and girls in families that used a voucher to move to lower-poverty neighborhoods were significantly likelier to attend college and earned 31 percent more — nearly \$3,500 a year — as young adults than their counterparts in the MTO control group); see also HEATHER SCHWARTZ, HOUSING POLICY IS SCHOOL POLICY: ECONOMICALLY INTEGRATIVE HOUSING PROMOTES ACADEMIC SUCCESS IN MONTGOMERY COUNTY, MARYLAND, THE CENTURY FOUNDATION 32 (2010),

Yet it is unrealistic to imagine that we will end the disgrace of Baltimore's under-caste neighborhoods by emptying them.

We must instead embrace a conscious strategy of spatial justice. Cities have extensive powers to shape their geographic space, through land use and development approval powers. City- and metropolitan-wide development is not the result of unconstrained market forces. Rather, development patterns result from legal, political, and social arrangements. A city is the spatial manifestation of economic life in a geographic place. It creates economic value by bringing together labor, land, and capital. A city uses its taxing, spending, and police powers to create the conditions for and then to protect that value. Where the results are cruelly inequitable, as in Baltimore, these tools can be deployed to promote greater equity. To embrace spatial justice, we need to acknowledge that local government processes for land-use and development—and policing—regularly isolate, exclude and restrict particular groups or classes of individuals. All of Baltimore's citizens are entitled, as members of the public whom government officials are constitution-bound to serve, to the collective value of the city. Baltimore's poorest citizens, living in its least-regarded neighborhoods, can justly claim a wider and fairer distribution of the basic economic resources and public goods created by the city.

Imagine what Baltimore City and its people could do *together*, once the city opts to exercise its municipal powers, working with its west-side residents as genuine stakeholders, not subcitizens, to design and build a resurgent Sandtown.

<https://tcf.org/assets/downloads/tcf-Schwartz.pdf> (children who moved to low-poverty neighborhoods and attended low-poverty schools made large gains in reading and math scores over a seven-year period, relative to similar students growing up in higher-poverty neighborhoods and schools); *see also* Patrick Sharkey, Amy E. Schwartz, Ingrid G. Ellen, & Johanna Laco, *High Stakes in the Classroom, High Stakes on the Street: The Effects of Community Violence on Students' Standardized Test Performance*, 1 *SOCIOLOGICAL SCIENCE* 199 (2014), [https://www.sociologicalscience.com/download/volume%201/may\(3\)/high-stakes-in-the-classroom-high-stakes-on-the-street.pdf](https://www.sociologicalscience.com/download/volume%201/may(3)/high-stakes-in-the-classroom-high-stakes-on-the-street.pdf); *see also* Patrick Sharkey, *The Acute Effect of Local Homicides on Children's Cognitive Performance*, 107 *PROCEEDINGS OF THE NAT'L ACADEMY SCIENCES OF THE USA* 11733–38 (June 29, 2010).

It is imperative to learn the hard-won lessons of past attempts. Baltimore City has not updated its urban renewal plan for Sandtown since 1993. The principal critique of the Sandtown revitalization effort of the 1990s was its top-down vision and method -- led by officials and funders -- in lieu of meaningful partnership with the existing civil leadership structures in the neighborhood. As one participant in the 1990's initiative reflected six months after Freddy Gray's death, the mistake in Sandtown back then was to build houses, but not community.³¹ Enduring community change requires neighborhood residents playing a central role to name and frame equitable solutions to reverse patterns of disinvestment and advance their communities. This requires City leaders, planners, and philanthropists to join with neighborhood residents, rather than to impose plans that do not address issues of importance to the neighborhood. Sandtown's residents know what they need and deserve³²: the full measure of the rights, privileges, and immunities as are accorded to citizens and not abridged because of their race or zip code.

³¹ Bishop Douglas Miles, chair-emeritus of BUILD, stated this in the Annie E. Casey Foundation's Community Matters Webinar Series. *Community Matters Highlights Baltimore Neighborhood's Innovative Approach to Development*, THE ANNIE E. CASEY FOUNDATION (Nov. 11, 2015), <http://www.aecf.org/blog/community-matters-highlights-baltimore-neighborhoods-approach>. Enduring community change depends on neighborhood residents playing a central role in efforts to improve their communities.

³² For example, The No Boundaries Coalition is a resident-led advocacy organization working to build an empowered and unified Central West Baltimore across the boundaries of race, class, and neighborhoods. *Mission*, NO BOUNDARIES COALITION, <http://www.noboundariescoalition.com/about/mission> (last visited Feb. 5, 2017). Founded in 2010, the Coalition advocates for safer streets, greater police accountability, more fresh affordable produce in the neighborhood, and increasing opportunities for young people. *History*, NO BOUNDARIES COALITION, <http://www.noboundariescoalition.com/about/history> (last visited Feb. 5, 2017).