

# Remedying the Effects of Government-Sanctioned Segregation in a Post-Freddie Gray Baltimore

Yvette N. Pappoe

Follow this and additional works at: <http://digitalcommons.law.umaryland.edu/rrgc>

---

## Recommended Citation

Yvette N. Pappoe, *Remedying the Effects of Government-Sanctioned Segregation in a Post-Freddie Gray Baltimore*, 16 U. Md. L.J. Race  
Relig. Gender & Class 115 ().

Available at: <http://digitalcommons.law.umaryland.edu/rrgc/vol16/iss1/6>

This Notes & Comments is brought to you for free and open access by the Academic Journals at DigitalCommons@UM Carey Law. It has been accepted for inclusion in University of Maryland Law Journal of Race, Religion, Gender and Class by an authorized administrator of DigitalCommons@UM Carey Law. For more information, please contact [smccarty@law.umaryland.edu](mailto:smccarty@law.umaryland.edu).

## REMEDYING THE EFFECTS OF GOVERNMENT-SANCTIONED SEGREGATION IN A POST-FREDDIE GRAY BALTIMORE

YVETTE N. PAPPOE\*

### I. INTRODUCTION

Since the civil unrest following the death of Freddie Gray, a 25-year-old Black<sup>1</sup> man who suffered a spinal cord injury and died in police custody, many—including political pundits, politicians, and residents—have debated about what went wrong in Baltimore. While some commentators believe the unrest was solely in response to “police mistreatment of black men,”<sup>2</sup> some have opined that the unrest was a product of pent up frustration caused by “crushing poverty, lack of opportunity,”<sup>3</sup> and the denial, to Black youth in Baltimore, of “the opportunity to participate in mainstream American society.”<sup>4</sup> This Comment argues that the aforementioned issues are a byproduct of racist government-sanctioned policies that continue to perpetuate racial and economic segregation and concentrated poverty in Black communities. For instance, in Sandtown-Winchester, the Baltimore neighborhood where Freddie Gray lived before he died, over 20 percent of the residents between the ages of 16 and 64 were unemployed in 2013, compared to 14 percent of residents in Baltimore

---

© 2016 Yvette N. Pappoe

\* J.D. Candidate, 2017, University of Maryland Francis King Carey School of Law. I would like to thank my family for their continued support and encouragement. I am indebted to the *University of Maryland Journal of Race, Religion, Gender and Class* staff for their assistance in the preparation of this Article. Above all, I would like to thank my Lord and Savior, Jesus Christ, for in Him I have been enriched in every way—with all kinds of speech and all knowledge.

<sup>1</sup> The descriptions “Black” and “White” will be capitalized because they denote classes of people with distinct cultures and history. While titles such as “African-American” and “Caucasian” are commonly used, I have chosen to use Black and White because these are the terms most often used in the bulk of materials cited.

<sup>2</sup> Peter Hermann & John Woodrow Cox, *A Freddie Gray Primer: Who Was He, How Did He Die, Why is There So Much Anger?*, WASH. POST (Apr. 28, 2015), <https://www.washingtonpost.com/news/local/wp/2015/04/28/a-freddie-gray-primer-who-was-he-how-did-he-why-is-there-so-much-anger/>.

<sup>3</sup> Nick Wing & Amber Ferguson, *The Best Commentary Coming Out of Baltimore is Coming Straight from the Mouths of Its Residents*, HUFFINGTON POST (Apr. 29, 2015), [http://www.huffingtonpost.com/2015/04/29/baltimore-residents-interviews\\_n\\_7174076.html](http://www.huffingtonpost.com/2015/04/29/baltimore-residents-interviews_n_7174076.html).

<sup>4</sup> Richard Rothstein, *From Ferguson to Baltimore: The Consequences of Government-Sponsored Segregation*, WASH. POST (May 3, 2015), <https://www.washingtonpost.com/news/answer-sheet/wp/2015/05/03/from-ferguson-to-baltimore-the-consequences-of-government-sponsored-segregation/>.

City.<sup>5</sup> Additionally, over 30 percent of the homes in that neighborhood are vacant, compared to 8 percent of those in Baltimore City.<sup>6</sup> About 30 percent of the neighborhood's residents over 25 years of age have less than a high school diploma, compared to the less than 20 percent of residents in Baltimore City.<sup>7</sup> The *Baltimore Sun* described Freddie Gray's neighborhood as "a neighborhood where generations of crushing poverty and the war on drugs combine to rob countless young people like [Freddie Gray] of meaningful opportunities."<sup>8</sup> These staggering statistics within a neighborhood that only spans a total of 72 square blocks<sup>9</sup> in Baltimore are a result of a century of racist public policy designed to segregate and impoverish the Black population in Baltimore.<sup>10</sup> This Comment seeks to analyze the effects of racist housing policies in Baltimore on access to opportunity and economic prosperity and to explore possible solutions. Part II outlines the evolution of housing policy decisions that resulted in economic and racial segregation and concentrated poverty among the Black population in Baltimore.<sup>11</sup> Part III argues that the lingering effects of housing segregation contributed to Freddie Gray's demise.<sup>12</sup> Part IV explores possible solutions for moving forward in a post-Freddie Gray Baltimore.<sup>13</sup>

---

<sup>5</sup> BALT. NEIGHBORHOOD INDICATORS ALLIANCE, *SANDTOWN-WINCHESTER/HARLEM PARK CSA 4* (n.d.), <http://bniajfi.org/wp-content/uploads/2015/04/VS13-Sandtown-Profile-and-Map.pdf> [hereinafter *SANDTOWN-WINCHESTER/HARLEM PARK CSA*]

<sup>6</sup> *Id.* at 2.

<sup>7</sup> *Id.* at 4.

<sup>8</sup> Editorial, *Why Freddie Gray Ran*, *BALT. SUN* (Apr. 25, 2015), <http://www.baltimoresun.com/news/opinion/editorial/bs-ed-freddie-gray-20150425-story.html>.

<sup>9</sup> *Sandtown-Winchester*, *LIVE BALTIMORE.COM*, <http://livebaltimore.com/neighborhoods/sandtown-winchester/#.VjUpOIQaot0> (last visited Mar. 11, 2016).

<sup>10</sup> See Yvonne Wenger, *Saving Sandtown-Winchester: Decade Long, Multimillion – Dollar Investment Questioned*, *BALT. SUN* (May 10, 2015), <http://www.baltimoresun.com/news/maryland/baltimore-city/west-baltimore/bs-md-ci-sandtown-winchester-blight-20150510-story.html> ("As if any dollar amount can be identified as being the amount necessary to unravel a couple hundred years of racism and oppression . . . [w]e are dealing with the results of how this country started, decisions made along the way, different laws and policies like redlining and blockbusting . . .").

<sup>11</sup> See *infra* Part II.

<sup>12</sup> See *infra* Part III.

<sup>13</sup> See *infra* Part IV.

## II. THE EVOLUTION OF GOVERNMENT-SANCTIONED SEGREGATION IN BALTIMORE

### A. *Racially Restrictive Covenants and the Expansion of the Ghetto.*

Following the end of the Civil War, Baltimore experienced an influx of Black migrants.<sup>14</sup> In an effort to maintain white supremacy, Baltimore politicians “fully supported Jim Crow, in unwritten policies and overt actions that dictated patterns of housing, employment . . . and education.”<sup>15</sup> In 1910, these unwritten practices were endorsed and enforced by the Baltimore City government. Baltimore Mayor J. Barry Mahool signed into law an ordinance, titled “Ordinance for preserving order securing property values and promoting the great interests and insuring the good government of Baltimore City,” that officially segregated housing between Blacks and Whites.<sup>16</sup> The ordinance was the first of its kind and resulted in other cities passing similar ordinances.<sup>17</sup> Lawmakers wrote the bill to “preserv[e] peace [and] preven[t] conflict and ill feeling between the [W]hite and colored races in Baltimore city . . .”<sup>18</sup> The City Solicitor at the time, Edgar Allan Poe, a grandnephew of the well-known poet, hailed the bill’s adoption as “a great public moment,” because he believed the very presence of negroes in predominantly white neighborhoods lead to “irritation, friction, disorder and strife.”<sup>19</sup>

---

<sup>14</sup> See generally MARISELA B. GOMEZ, RACE, CLASS, POWER, AND ORGANIZING IN EAST BALTIMORE: REBUILDING ABANDONED COMMUNITIES IN AMERICA 18 (2015).

<sup>15</sup> *Id.*

<sup>16</sup> See generally Garret Power, *Apartheid Baltimore Style: The Residential Segregation Ordinances of 1910-1913*, 43 MD. L. REV. 289, 300 (1983) (describing mayoral signing ceremony and the city solicitor’s public opinion that the ordinance was constitutional).

<sup>17</sup> *Id.* at 289. See also Roger L. Rice, *Residential Segregation by Law, 1910-1917*, 34 J.S. HIST. 179, 181-82 (1968). The cities were: Atlanta, Ga.; Greenville, S.C.; Ashland, Roanoke, Richmond, Norfolk, and Portsmouth, Va.; Winston-Salem, N.C.; and Louisville, Ky.

<sup>18</sup> Power, *supra* note 16, at 289.

<sup>19</sup> *Id.* at 300.

The National Association for the Advancement of Colored People (NAACP) initiated the end of Baltimore's legacy when it filed suit in federal court to block the implementation of Louisville's segregation law.<sup>20</sup> In 1917, the U.S. Supreme Court unanimously declared Louisville's segregation law unconstitutional, thereby striking down Baltimore's ordinance.<sup>21</sup> Racially restrictive covenants became the new instrument of segregation following that decision.<sup>22</sup> Private actors clung to these covenants, which prohibited Blacks—among other restrictions—from buying or occupying real estate property, and prohibited Whites from selling to Blacks.<sup>23</sup> Furthermore, middle-class whites formed neighborhood “improvement associations” in an effort to thwart black residential expansion.<sup>24</sup> These neighborhood associations went to great lengths to “preserve the racial homogeneity of neighborhoods.”<sup>25</sup> They threatened and boycotted real estate agents who sold homes to Blacks as well as offered cash bonuses to black renters who agreed to leave the neighborhood.<sup>26</sup> The most effective and important tool, however, was the implementation of restrictive covenants.<sup>27</sup>

In Baltimore, the enforcement of restrictive covenants was not solely among private homeowners, but within the city government as well.<sup>28</sup> In fact, in 1923, Mayor Howard Jackson formed a Committee on Segregation that was tasked with “encourag[ing] neighbors,

---

<sup>20</sup> See generally *Buchanan v. Warley*, 245 U.S. 60 (1917).

<sup>21</sup> *Id.* at 82.

<sup>22</sup> *The Civil Rights Act of 1964: A Long Struggle for Freedom, The Segregation Era (1900-1939)*, LIBRARY OF CONGRESS, <http://www.loc.gov/exhibits/civil-rights-act/segregation-era.html#obj026>.

<sup>23</sup> See U.S. COMM'N ON CIVIL RIGHTS, UNDERSTANDING FAIR HOUSING 3 (1973) (noting that although private builder were “not as outspoken on the necessity of residential segregation . . . [they] nevertheless, acted in accordance with the separate market principle.”).

<sup>24</sup> DOUGLAS S. MASSEY & NANCY A. DENTON, *AMERICAN APARTHEID: SEGREGATION AND THE MAKING OF THE UNDERCLASS* 35 (1993).

<sup>25</sup> *Id.* at 36.

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

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

<sup>28</sup> WILLIAM G. LEFURGY ET AL., *BALT. CITY ARCHIVES AND RECORDS MGMT. OFFICE, GOVERNING BALTIMORE: A GUIDE TO RECORDS OF THE MAYOR AND CITY COUNCIL AT THE BALTIMORE CITY ARCHIVES* 7-8 (1981), [http://msa.maryland.gov/megafile/msa/speccol/sc5300/sc5339/000097/000000/000021/restricted/bca\\_mayors\\_records.pdf](http://msa.maryland.gov/megafile/msa/speccol/sc5300/sc5339/000097/000000/000021/restricted/bca_mayors_records.pdf) (noting archived items on the subject of segregation within the files of former Mayors Mahool, Preston, and Jackson).

government officials, and real estate agents to use restrictive covenants . . .”<sup>29</sup> Further, in 1938, the Court of Appeals of Maryland rejected a black man’s argument that racially restrictive covenants were unconstitutional.<sup>30</sup> In *Meade v. Dennistone*, Mary Estelle Dennistone, a White woman, filed a complaint against Edward Meade, a Black man, who had moved into a home on the same street as Dennistone in a predominantly white neighborhood.<sup>31</sup> Dennistone sued Meade for violating a racially restrictive covenant that prohibited Black people from occupying any of the homes in the neighborhood, unless they were employed as servants.<sup>32</sup> The court rejected Meade’s arguments that the covenant did not “run with the land; [was] contrary to public policy; there [was] no privity of estate or contract between the covenantor and the covenantee’s assignee; [was] an unreasonable restraint on alienation; the reasons for its execution no longer obtain; [was] repugnant to the grant; and that its enforcement would be in violation of the Fourteenth Amendment to the Federal Constitution.”<sup>33</sup> The court reasoned that Meade had “constructive notice” of the covenant and held the covenant was “lawful and enforceable, [and] not opposed to the public policy of this state.”<sup>34</sup> *Meade* affirmed the notion that the Fourteenth Amendment only protected against discrimination by a public or state actor, not private actors.<sup>35</sup>

In conjunction with neighborhood associations and the city government, the private sector took the lead in establishing racially restrictive covenants to exclude Blacks from predominantly White areas.<sup>36</sup> In 1924, for example, the National Association of Real Estate Boards amended its code of ethics to require that a realtor “never be instrumental in introducing into a neighborhood character of property that or occupancy, members of any race or nationality, or any

---

<sup>29</sup> Garrett Power, *Meade v. Dennistone: The NAACP’s Test Case to “. . . Sue Jim Crow Out of Maryland with the Fourteenth Amendment,”* 63 MD. L. REV. 773, 792 (2004).

<sup>30</sup> See *Meade v. Dennistone*, 196 A. 330, 336 (Md. 1938).

<sup>31</sup> *Id.* at 331.

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

<sup>33</sup> *Id.* at 332.

<sup>34</sup> *Id.* at 336.

<sup>35</sup> See generally *The Civil Rights Cases*, 109 U.S. 3 (1883).

<sup>36</sup> See *MASSEY & DENTON*, *supra* note 24, at 36 (noting that “local real estate boards often took the lead in establishing restrictive covenants and arranging for their widespread use.”).

individual whose presence will be clearly detrimental to property values in a neighborhood.”<sup>37</sup> Since the commonly held belief was that black residents lowered the property value in white neighborhoods,<sup>38</sup> realtors were essentially obligated to further segregation by prohibiting Blacks from even looking at homes in White neighborhoods or risk having their licenses revoked. The provision remained in effect until 1950.<sup>39</sup>

The effort to maintain White supremacy through the use of racially restrictive covenants and segregation ordinances helped create the conditions for the expansion of the ghetto. Neighborhoods became more racially “dense and spatially concentrated” as a result of the employment of these mechanisms to keep Blacks out of predominantly White areas.<sup>40</sup> Moreover, Blacks were more spatially isolated in neighborhoods than their white counterparts in several cities as a result of White prejudice.<sup>41</sup> The federal government ultimately became involved in perpetuating this institutionalized and systemic racial discrimination and segregation.

*B. The Federal Housing Administration and the  
Disinvestment in Black Communities.*

Although the U.S. Supreme Court declared the judicial enforcement of racially restrictive covenants unconstitutional in

---

<sup>37</sup> *NAREB Code of Ethics*, OREGON HISTORY PROJECT, <http://oregonhistoryproject.org/articles/historical-records/nareb-code-of-ethics/#.VwAWbmMfdE4> NAR 1924 Code of Ethics Article 34 (last visited Apr. 2, 2016).

<sup>38</sup> The discussion of racism is limited to Blacks and Whites because of the current population breakdown of Baltimore. There are roughly 64% black residents and about 30% white residents in Baltimore City. *See* MD. DEP’T OF PLANNING, TOTAL POPULATION BY RACE FOR MARYLAND’S JURISDICTIONS, APRIL 1, 2010 (2011), [http://www.mdp.state.md.us/msdc/census/cen2010/PL94-171/cnty/Totpop\\_race\\_2010.pdf](http://www.mdp.state.md.us/msdc/census/cen2010/PL94-171/cnty/Totpop_race_2010.pdf). In addition, the highest rates of segregation in the Baltimore region are between white and black residents. *See generally* OPPORTUNITY COLLABORATIVE, STRONG COMMUNITIES, STRONG REGION: THE BALTIMORE REGIONAL HOUSING PLAN AND FAIR HOUSING EQUITY ASSESSMENT 1-3 (2014), <http://www.opportunitycollaborative.org/assets/Housing-Plan-8-page-summary-Nov2014.pdf?ae56d8>.

<sup>39</sup> ROSE HELPER, RACIAL POLICIES AND PRACTICES OF REAL ESTATE BROKERS 201 (University of Minnesota Press 1969).

<sup>40</sup> MASSEY & DENTON, *supra* note 24, at 39.

<sup>41</sup> *Id.* at 46.

1948,<sup>42</sup> a pervasive pattern of housing discrimination against Blacks persisted.<sup>43</sup> During the Great Depression in the 1930s, Congress created the Home Owners' Loan Corporation ("HOLC"), "which provided funds for refinancing urban mortgages in danger of default and granted low-interest loans to former owners who had lost their homes through foreclosure, to enable them to regain their properties."<sup>44</sup> The Home Owners' Loan Corporation Act of 1933 created the HOLC as part of President Roosevelt's New Deal.<sup>45</sup> Shortly thereafter, Congress created the Federal Housing Administration ("FHA") as part of the National Housing Act of 1934, which was tasked with insuring private mortgages in order to promote homeownership.<sup>46</sup> The HOLC "adopted a set of standards set by the real estate industry to rank the riskiness of potential loans," where homes in or near predominantly Black areas were ranked lowest and coded with the color red.<sup>47</sup> This discriminatory practice came to be known as redlining, which excluded these areas from the loan program.<sup>48</sup> The HOLC's practice of steering mortgage funds from predominantly Black areas served as an example for private and public lending institutions, thereby permitting significant disinvestment in those areas.<sup>49</sup> In 1936, the HOLC stopped making loans and eventually ceased operation in 1951.<sup>50</sup>

---

<sup>42</sup> See *Shelley v. Kraemer*, 334 U.S. 1 (1948).

<sup>43</sup> Thomas B. McAfee, *Shelley v. Kraemer: Herald of Social Progress and of the Coming Debate Over the Limits of Constitutional Change*, 34 ST. LOUIS B. J. 14, 18 (1987), <http://scholars.law.unlv.edu/cgi/viewcontent.cgi?article=1553&context=facpub> ("Shelley did not end extensive segregation and racial discrimination, even in the housing industry.").

<sup>44</sup> MASSEY & DENTON, *supra* note 24, at 51.

<sup>45</sup> FED. HOME FINANCE AGENCY OFFICE OF INSPECTOR GENERAL, A BRIEF HISTORY OF THE HOUSING GOVERNMENT-SPONSORED ENTERPRISES 1, <http://fhfaoig.gov/Content/Files/History%20of%20the%20Government%20Sponsored%20Enterprises.pdf>.

<sup>46</sup> Editorial, *How Racism Doomed Baltimore*, N.Y. TIMES (May 9, 2015), <http://www.nytimes.com/2015/05/10/opinion/sunday/how-racism-doomed-baltimore.html>.

<sup>47</sup> PATRICK SHARKEY, *STUCK IN PLACE: URBAN NEIGHBORHOODS AND THE END OF PROGRESS TOWARD RACIAL EQUALITY* 59 (University Of Chicago Press, 1st ed. 2013).

<sup>48</sup> *Id.*

<sup>49</sup> MASSEY & DENTON, *supra* note 24, at 51.

<sup>50</sup> SHARKEY, *supra* note 47, at 59.

Following the dismantling of the HOLC, the FHA assumed responsibility of many of the HOLC's tasks. The FHA embraced the HOLC's mapping system and "rated African American neighborhoods as risky places for loans, marking them out, or redlining them."<sup>51</sup> In Baltimore, virtually "all black neighborhoods were redlined . . ." including Freddie Gray's own neighborhood, Sandtown-Winchester.<sup>52</sup> This policy demonstrated that the FHA endorsed a system of financial apartheid under which "[W]hites looking to achieve the American dream could rely on a legitimate credit system backed by the government. Blacks were herded into the sights of unscrupulous lenders who took them for money and for sport."<sup>53</sup> Thus, although the FHA did in fact promote homeownership, it only did so amongst White people and effectively "encouraged further redlining by banks, insurance companies, and other businesses, thereby dooming older city neighborhoods to advancing decay, particularly if they were [B]lack or mixed race."<sup>54</sup> This federal policy further "prohibited black families from accumulating housing equity during the suburban boom that moved white families into single-family homes from the mid-1930s to the mid-1960s—and thus from bequeathing that wealth to their children and grandchildren, as white suburbanites have done."<sup>55</sup> Moreover, the FHA contributed significantly to White flight, a phenomenon of massive "out-migration of middle class whites to the suburbs," by making purchasing suburban homes more affordable than renting older homes in the inner city.<sup>56</sup>

The FHA discretely favored suburbanization<sup>57</sup> and thus significantly contributed to disinvestment in black neighborhoods and

---

<sup>51</sup> GOMEZ, *supra* note 14, at 20

<sup>52</sup> ANTERO PIETILA, NOT IN MY NEIGHBORHOOD: HOW BIGOTRY SHAPED A GREAT AMERICAN CITY 72 (Ivan R. Dee, 1st ed. 2010). *See also* RESIDENTIAL SECURITY MAP OF BALTIMORE MD., HOME OWNER'S LOAN CORP. (1937), <https://jscholarship.library.jhu.edu/handle/1774.2/32621>.

<sup>53</sup> Ta-Nehisi Coates, *The Case for Reparations*, THE ATLANTIC (June 2014), <http://www.theatlantic.com/magazine/archive/2014/06/the-case-for-reparations/361631/>.

<sup>54</sup> PIETILA, *supra* note 52, at 73.

<sup>55</sup> Rothstein, *supra* note 4.

<sup>56</sup> MASSEY & DENTON, *supra* note 24, at 53.

<sup>57</sup> *See id.* (" . . . the marriage of FHA financing and new construction techniques made it cheaper to buy new suburban homes than to rent comparable older dwellings in the central city. As a result, the FHA . . . contributed significantly to the decline of

ultimately black people.<sup>58</sup> The policies and regulations reflected a bias toward the construction of single-family homes over multi-family units.<sup>59</sup> Likewise, the FHA made it easier and more affordable for families to finance new homes instead of renovating older ones because loans for the remodeling or repair of existing structures were small and had a short amortization period.<sup>60</sup> The practice of redlining rendered “whole areas of cities ineligible for loan guarantees,”<sup>61</sup> thereby concentrating poverty and “leading to steep declines in property values and a pattern of disrepair, deterioration, vacancy, and abandonment.”<sup>62</sup> Ultimately, many cities suffered from what seemed like an irreversible decline as a result of federal housing policies.<sup>63</sup>

The government-backed segregation policies served as a telltale sign for other entities, such as private banks, to take advantage of hopeful Black homebuyers. In 2008, the City of Baltimore sued Wells Fargo Bank alleging that Wells Fargo engaged in “reverse redlining,” the practice of targeting black neighborhoods in Baltimore “for deceptive, predatory or otherwise unfair mortgage lending practices,”<sup>64</sup> in violation of the Fair Housing Act. The City also asserted that this practice “caused an excessive and disproportionately high number of foreclosures” in Black communities and thus resulted

---

he inner city by encouraging the selective out migration of middle-class [W]hites to the suburbs.”).

<sup>58</sup> See Gregory D. Squires & Charis E. Kubrin, *Privileged Places: Race, Opportunity, and Uneven Development in Urban America*, 147 *SHELTERFORCE* 1, 9 (2006), <http://nhi.org/online/issues/147/privilegedplaces.html> (“Government policy has also encouraged the flight of businesses and jobs from cities to surrounding suburban communities and beyond. Financial incentives including infrastructure investments, tax abatements and depreciation allowances favoring new equipment over reinvestment in existing facilities all have contributed to the deindustrialization and disinvestment of urban communities.”).

<sup>59</sup> Kenneth T. Jackson, *Federal Subsidy and the Suburban Dream: The First Quarter-Century of Government Intervention in the Housing Market*, 50 *RECORDS OF COLUMBIA HISTORICAL SOC’Y* 421, 428 (1980).

<sup>60</sup> *Id.*

<sup>61</sup> *Id.* at 441.

<sup>62</sup> MASSEY & DENTON, *supra* note 24, at 55.

<sup>63</sup> See MYRON LEVINE, *URBAN POLITICS: CITIES AND SUBURBS IN A GLOBAL AGE* 36 (Routledge, 9th ed. 2015) (noting “the harm that the FHA had done could not be undone. The FHA had helped to underwrite the growth of a racially homogeneous suburbia and the decline of minority-dominated central-city neighborhoods.”).

<sup>64</sup> Mayor and City Council of Baltimore v. Wells Fargo Bank, 2010 WL 1459070 (D. Md. 2010).

in financial harm for qualified borrowers.<sup>65</sup> The City's suit spawned an investigation of the allegations by the Department of Justice ("DOJ"). In 2012, the DOJ filed a settlement suit to resolve the allegations against Wells Fargo.<sup>66</sup> The suit alleged that, "between 2004 and 2008, Wells Fargo discriminated by steering approximately 4,000 African-American and Hispanic wholesale borrowers, as well as additional retail borrowers, into subprime mortgages when non-Hispanic white borrowers with similar credit profiles received prime loans."<sup>67</sup> Wells Fargo settled with the DOJ for \$175 million, but maintained the position that it did not engage in discriminatory lending.<sup>68</sup> About 1,000 Baltimore residents were redressed for Wells Fargo's wrongdoing.<sup>69</sup> Nonetheless, Black Baltimoreans are still left out of the wealth that homeownership carries.<sup>70</sup> Moreover, Black communities, such as Sandtown-Winchester, continue to suffer from the effects of the practices employed by Wells Fargo<sup>71</sup> and the federal government.

*C. The Advent of Public Housing and the Consequences of Urban Renewal and Slum Clearance.*

Baltimore's public housing has suffered from nearly a century of segregation that has resulted in the entrapment of thousands of

---

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

<sup>66</sup> Press Release, Dep't of Justice, Justice Department Reaches Settlement with Wells Fargo in More Than \$175 Million in Relief for Homeowners to Resolve Fair Lending Claims (July 12, 2012) (available at <http://www.justice.gov/opa/pr/justice-department-reaches-settlement-wells-fargo-resulting-more-175-million-relief>).

<sup>67</sup> *Id.*

<sup>68</sup> See Luke Broadwater, *Wells Fargo Agreed to Pay \$175 Settlement in Pricing Discrimination Suit*, BALT. SUN (July 12, 2012), [http://articles.baltimoresun.com/2012-07-12/news/bs-md-ci-wells-fargo-20120712\\_1\\_mike-heid-wells-fargo-home-mortgage-subprime-mortgages](http://articles.baltimoresun.com/2012-07-12/news/bs-md-ci-wells-fargo-20120712_1_mike-heid-wells-fargo-home-mortgage-subprime-mortgages).

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

<sup>70</sup> See Rothstein, *supra* note 4. ("In Baltimore and elsewhere, the distressed condition of African American working- and lower-middle-class families is almost entirely attributable to federal policy that prohibited black families from accumulating housing equity during the suburban boom that moved white families into single-family homes from the mid-1930s to the mid-1960s—and thus from bequeathing that wealth to their children and grandchildren, as white suburbanites have done.")

<sup>71</sup> See Coates, *supra* note 53 ("In 2009, half the properties in Baltimore whose owners had been granted loans by Wells Fargo between 2005 and 2008 were vacant; 71 percent of these properties were in predominantly black neighborhoods.").

Black families in impoverished neighborhoods.<sup>72</sup> Shortly after the passage of the Housing Act of 1937, which created a federally funded public housing program,<sup>73</sup> Mayor Howard W. Jackson established the Housing Authority of Baltimore City (HABC) to build and operate public housing developments.<sup>74</sup> Because of World War II, few public housing units were built under the 1937 Act.<sup>75</sup> President Harry S. Truman approved the Housing Act of 1949,<sup>76</sup> an amendment to the 1937 Act that “equip[ped] the Federal Government, for the first time, with effective means for aiding cities in the vital task of clearing slums and rebuilding blighted areas.”<sup>77</sup> The passage of the amendment to the 1937 Act significantly contributed to the concentration of poverty in inner cities.<sup>78</sup> The Act mandated public housing be “within the financial reach of families of low income,” defined as those “who are in the lowest income group . . . .”<sup>79</sup> The 1949 amendment provided more stringent income limitations, requiring public housing authorities (PHA) to enforce specific income ceilings, thereby forcing out those whose income exceeded the limit and assuring that all occupants would be poor.<sup>80</sup> The structure of the program and mandatory income requirements fostered the concentration of poverty and further perpetuated racial segregation.

In 1995, the American Civil Liberties Union sued the U.S. Department of Housing and Urban Development (HUD) “on behalf of a class of African American residents of public housing units of Baltimore City claiming discrimination based on their race.”<sup>81</sup> The

---

<sup>72</sup> See *Thompson v. U.S. Dep’t of Hous. & Urban Dev.*, 348 F. Supp. 2d 398, 398 (D. Md. 2005) (discussing how public housing became entirely occupied by African Americans).

<sup>73</sup> Housing Act of 1937, Pub. L. No. 75-412, 50 Stat. 888 (codified as amended at 42 U.S.C. §§ 1437–1439 (1993)).

<sup>74</sup> *Over 75 Years of Rich History*, HOUS. AUTHORITY OF BALT., [http://www.baltimorehousing.org/75th\\_timeline](http://www.baltimorehousing.org/75th_timeline) (last visited Mar. 8, 2016).

<sup>75</sup> Michael H. Schill & Susan M. Wachter, *The Spatial Bias of Federal Housing Law and Policy: Concentrated Poverty in Urban America*, 143 U. PA. L. REV. 1285, 1292 n.24 (1994–95).

<sup>76</sup> Housing Act of 1949, Pub. L. No. 81-171, 63 Stat. 413.

<sup>77</sup> Harry S. Truman, Statement Upon Signing the Housing Act of 1949 (July 15, 1949) (transcript available at <http://www.presidency.ucsb.edu/ws/?pid=13246>).

<sup>78</sup> Schill & Wachter, *supra* note 75, at 1292.

<sup>79</sup> United States Housing Act of 1937, Pub. L. No. 75-412, § 2 (1)–(2), 50 Stat. 888.

<sup>80</sup> See Housing Act of 1949, Pub. L. No. 81-171, § 301(8), 63 Stat. 413, 422–23.

<sup>81</sup> *Thompson*, 348 F. Supp. 2d at 404.

plaintiffs argued that “since 1954 the leadership of Baltimore City . . . engaged in a pattern and practice of discrimination against Blacks in regard to public housing” and “failed to take required action to ameliorate the effects of past race based discrimination in regard to public housing.”<sup>82</sup> The court found that HUD violated the Fair Housing Act of 1968 by treating Baltimore as an “island reservation for use as a container for all of the poor of” the entire metropolitan area and unfairly concentrating black public housing residents in the most impoverished, segregated areas of Baltimore City.<sup>83</sup> It ruled that HUD must take affirmative steps to implement an effective regional strategy for promoting fair housing opportunities for Black public housing residents throughout the Baltimore region.<sup>84</sup> In November 2012, the court approved a settlement that provided, among other things, an expansion of a successful mobility program that assists families who live in public housing and impoverished areas of Baltimore to move to communities that have better education and economic opportunities.<sup>85</sup> The court’s decision has been hailed as a major step toward “eradicat[ing] the legacy of nearly a century of government-sponsored racial segregation in the Baltimore Region.”<sup>86</sup>

### III. WHAT’S HOUSING ‘GOTTA DO WITH FREDDIE GRAY?

A growing body of research shows that concentrated poverty in residential neighborhoods affects an individual’s life chances.<sup>87</sup> Sandtown-Winchester, the neighborhood in which Freddie Gray lived before he died in police custody, has been in the national spotlight since his death and subsequent protests.<sup>88</sup> Home to some 14,000

---

<sup>82</sup> *Id.* at 407.

<sup>83</sup> *Id.* at 408.

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

<sup>85</sup> Press Release, NAACP, Baltimore Public Housing Families Applaud Settlement Fair Housing Lawsuit Hearing (Nov. 20, 2012) (available at <http://www.naacpldf.org/press-release/baltimore-public-housing-families-applaud-settlement-fair-housing-lawsuit-hearing>) [hereinafter NAACP Press Release].

<sup>86</sup> *Id.*

<sup>87</sup> See Douglas S. Massey et al., *Segregation, the Concentration of Poverty, and the Life Chances of Individuals*, 20 SOC. SCI. RES. 397, 397-420 (1991); see also Jens Ludwig, *Moving to Opportunity: The Effects of Concentrated Poverty on the Poor*, THIRD WAY (Aug. 22, 2014), <http://www.thirdway.org/report/moving-to-opportunity-the-effects-of-concentrated-poverty-on-the-poor>.

<sup>88</sup> See Jay Brodie, *Jay Brodie: Baltimore Must Act Now to Improve Sandtown-Winchester*, BALT. BUS. J. (Feb. 9, 2016),

people,<sup>89</sup> Sandtown has been characterized as “blighted,”<sup>90</sup> “depressed,”<sup>91</sup> and “struggling.”<sup>92</sup> As a matter of fact, almost half of the children living in Sandtown live below the poverty line, nearly a quarter of the adults are unemployed, and over a third of the homes are vacant and abandoned.<sup>93</sup> However, Sandtown-Winchester was not always a town marked by economic deprivation and social ills. In fact, Sandtown was once a booming neighborhood and home to the historic Pennsylvania Avenue, a then popular street for arts and culture,<sup>94</sup> the first Black Supreme Court Justice, Thurgood Marshall, who graduated from the local Frederick Douglass High School,<sup>95</sup> and Schmidt Bakery, a local bakery where “people could earn a good paycheck.”<sup>96</sup> But, by the 1990s, Sandtown had experienced a loss of its middle-class tax base and the Schmidt Bakery was no more.<sup>97</sup>

---

<http://www.bizjournals.com/baltimore/news/2016/02/09/jay-brodie-baltimore-must-act-now-to-improve.html> (“Since the riots and other events last spring, no city neighborhood has been referred to more than Sandtown-Winchester. There was repeated coverage on national and local television, on the radio and in print articles.”).

<sup>89</sup> See SANDTOWN-WINCHESTER/HARLEM PARK CSA, *supra* note 5.

<sup>90</sup> Justin Fenton, *Report: Sandtown-Winchester Leads State in Number of People Incarcerated*, BALTIMORE SUN (Feb. 25, 2015), <http://www.baltimoresun.com/news/maryland/crime/blog/bs-md-ci-baltimore-incarceration-report-20150224-story.html>.

<sup>91</sup> Jeremy Ashkenas et. al., *A Portrait of the Sandtown-Winchester Neighborhood in Baltimore*, N.Y. TIMES (May 3, 2015), [http://www.nytimes.com/interactive/2015/05/03/us/a-portrait-of-the-sandtown-neighborhood-in-baltimore.html?\\_r=0](http://www.nytimes.com/interactive/2015/05/03/us/a-portrait-of-the-sandtown-neighborhood-in-baltimore.html?_r=0).

<sup>92</sup> Wenger, *supra* note 10.

<sup>93</sup> See SANDTOWN-WINCHESTER/HARLEM PARK CSA, *supra* note 5.

<sup>94</sup> Amy Mulvihill, *Lady (Birth) Day*, BALTIMORE (Apr. 2015), <http://www.baltimoremagazine.net/2015/4/7/billie-holiday-100th-birthday>.

<sup>95</sup> Stefanie DeLuca & Peter Rosenblatt, *Sandtown-Winchester – Baltimore’s Daring Experiment in Urban Renewal: 20 Years Later, What Are The Lessons Learned?* ABELL REPORT (Nov. 2013), [http://www.prrac.org/pdf/Abell\\_Sandtown\\_Report.pdf](http://www.prrac.org/pdf/Abell_Sandtown_Report.pdf).

<sup>96</sup> Wenger, *supra* note 10.

<sup>97</sup> Wiley A. Hall, *Sandtown Gleam Typifies Successful Fight of Blight*, BALTIMORE SUN (Sep. 27, 1994), [http://articles.baltimoresun.com/1994-09-27/news/1994270180\\_1\\_sandtown-schmoke-bakery](http://articles.baltimoresun.com/1994-09-27/news/1994270180_1_sandtown-schmoke-bakery). See also Paul Marx, *Rouse’s Failure In Sandtown-Winchester*, BALTIMORE SUN (Mar. 13, 2015, 12:10 PM), <http://www.baltimoresun.com/news/opinion/oped/bs-ed-sandtown-rouse-20150315-story.html>. (“When Rouse took on the Sandtown-Winchester project in the early 1990s, the neighborhood was in as bad shape as any neighborhood in the country. On almost every street there were abandoned houses. Of the houses that were lived in, 80 percent needed serious work. The unemployment rate for men was at 44 percent. On all statistical indicators, the neighborhood was at the bottom or near bottom.”).

Currently, in addition to concentrated poverty and high unemployment,<sup>98</sup> Sandtown-Winchester has the highest crime rate of any neighborhood in Maryland and the highest amount of people incarcerated in state prisons.<sup>99</sup> Research has shown that living in a neighborhood with such a high concentration of poverty is associated with living in an environment that offers little to no opportunity for success.<sup>100</sup> Unfortunately for Freddie Gray, he was born and raised in such an economically depressed neighborhood, where the concentration of poverty goes hand in hand with high crime and violence. To no surprise, Freddie Gray had multiple run-ins with law enforcement, suffered from lead poisoning, and had difficulty finding employment.<sup>101</sup> The conditions in Freddie Gray's neighborhood were created, not by happenstance, but by the above-mentioned government-sponsored decisions and policies.<sup>102</sup> Arguably, these conditions had a direct effect on Gray's arrests and eventual demise.

*A. Exposure to dangerous levels of lead poisoning while living in public housing led to Freddie Gray's run-ins with the law.*

Baltimore has a long and toxic history with lead paint and the irreversible effects of lead poisoning on children.<sup>103</sup> According to the Centers for Disease Control and Prevention (CDC), there are approximately half a million U.S. children between the ages of 1 to 5

---

<sup>98</sup> See Jana Kasperkevic, *In Freddie Gray's Neighborhood More Than a Third of Households Are in Poverty*, THE GUARDIAN (Apr. 28, 2015, 16:59 PM), <http://www.theguardian.com/us-news/2015/apr/28/freddie-gray-neighborhood-baltimore-poverty-unemployment> (noting Sandtown-Winchester had a 24.2% unemployment rate in 2012 and 35.4% of households in live in poverty).

<sup>99</sup> JUSTICE POLICY INSTITUTE & PRISON POLICY INITIATIVE, THE RIGHT INVESTMENT?: CORRECTIONS SPENDING IN BALTIMORE CITY 1 (2015), <http://www.prisonpolicy.org/origin/md/report.html>.

<sup>100</sup> See SHARKEY, *supra* note 47, at 28; see also MASSEY & DENTON, *supra* note 24.

<sup>101</sup> Janell Ross, *Why You Should Know What Happened in Freddie Gray's Life – Long Before his Death*, WASH. POST (Dec. 19, 2015), <https://www.washingtonpost.com/news/the-fix/wp/2015/12/19/why-you-should-know-what-happened-in-freddie-grays-life-long-before-his-death/>.

<sup>102</sup> See *supra* Part II.

<sup>103</sup> See Justin Worland, *Cities like Baltimore Still Suffer From the Toxic Legacy of Lead Contamination*, TIME (May 7, 2015), <http://time.com/3845837/baltimore-lead-contamination>.

poisoned with lead.<sup>104</sup> Exposure to lead has been shown to cause damage to the brain and nervous system, slowed growth and development, learning and behavior problems, underperformance at school, and decreased ability to pay attention.<sup>105</sup> Although the CDC has not determined that there is a safe threshold level for lead poisoning, in 2012, it reduced the blood levels of lead that required case management from 10 micrograms per deciliter (ug/dL) to 5 ug/dL.<sup>106</sup> In 2013, the Maryland Department of the Environment reported that more than a thousand children in Baltimore tested for blood-levels between 5 and 9 ug/dL and over two hundred tested for blood levels at or greater than 10 ug/dL.<sup>107</sup>

In 2008, Freddie Gray and his twin sister filed suit against Stanley Rochkind, the owner of a Sandtown-Winchester home the Gray family rented for four years.<sup>108</sup> The court records indicate that between 1992 and 1996, Freddie Gray's blood had between 11 ug/dL and 19 ug/dL of lead—nearly four times higher than the newly reduced reference value of 5 ug/dL.<sup>109</sup> According to the lawsuit, Freddie was diagnosed with Attention Deficit Hyperactivity Disorder (ADHD),<sup>110</sup> frequently absent from school because of truancy and suspensions,<sup>111</sup> and never graduated from high school.<sup>112</sup> The

---

<sup>104</sup> CENTERS FOR DISEASE CONTROL AND PREVENTION, PREVENT CHILDHOOD LEAD POISONING, <http://www.cdc.gov/nceh/lead/publications/lead-infographic-final-full.pdf>.

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

<sup>106</sup> Centers for Disease Control and Prevention, *Lead: What Do Parents Need to Know to Protect Their Children?*, CDC.GOV (June 19, 2014), [http://www.cdc.gov/nceh/lead/ACCLPP/blood\\_lead\\_levels.htm](http://www.cdc.gov/nceh/lead/ACCLPP/blood_lead_levels.htm).

<sup>107</sup> MD. DEP'T OF THE ENV'T, CHILDHOOD BLOOD LEAD SURVEILLANCE IN MARYLAND: ANNUAL REPORT 2013 4 (July 2014), <http://mde.maryland.gov/programs/Land/Documents/LeadReports/LeadReportsAnnualChildhoodLeadRegistry/LeadReportCLR2013.pdf>.

<sup>108</sup> Jean Marbella, *Beginning of Freddie Gray's Life as Sad as Its End, Court Case Shows*, BALT. SUN (Apr. 23, 2015, 8:28 PM), <http://www.baltimoresun.com/news/maryland/baltimore-city/bs-md-freddie-gray-lead-paint-20150423-story.html>.

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

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

<sup>111</sup> Terrence McCoy, *Freddie Gray's Life a Study on Effects of Lead Paint on Poor Blacks*, WASH. POST (Apr. 29, 2015), [https://www.washingtonpost.com/local/freddie-grays-life-a-study-in-the-sad-effects-of-lead-paint-on-poor-blacks/2015/04/29/0be898e6-eea8-11e4-8abc-d6aa3bad79dd\\_story.html?tid=pm\\_local\\_pop\\_b](https://www.washingtonpost.com/local/freddie-grays-life-a-study-in-the-sad-effects-of-lead-paint-on-poor-blacks/2015/04/29/0be898e6-eea8-11e4-8abc-d6aa3bad79dd_story.html?tid=pm_local_pop_b).

defendants argued that, despite the peeling paint in the home, Freddie's troubles in school were caused by "poverty . . . and other socioeconomic forces," not lead poisoning.<sup>113</sup> However, research indicates that children with lead poisoning are "ill equipped to stay in the classroom, finish school, . . . [or] to be able to overcome the poverty and other circumstances that pull them down."<sup>114</sup> Consequently, living in the ghetto<sup>115</sup> quite literally poisoned Freddie Gray and led him down a path of frequent delinquency.<sup>116</sup>

*B. Freddie Gray grew up in an economically devastated neighborhood that significantly lowered his life chances.*

Gray's residence in Sandtown-Winchester significantly impacted his life chances. William Julius Wilson argues, in *The Truly Disadvantaged*, that being poor in a high poverty neighborhood increases the likelihood of being unemployed, dropping out of school, and taking up crime.<sup>117</sup> Sandtown-Winchester is exactly the type of neighborhood Wilson is describing—where "about half the children live below the poverty line, nearly a quarter of adults are out of work, and the homicide rate is more than double the citywide average."<sup>118</sup> According to a Harvard University study, every extra year spent in Baltimore reduces a child's earnings by 0.7% per year of exposure.<sup>119</sup>

<sup>112</sup> Nicolás Medina Mora, *The Short, Hard Life of Freddie Gray*, BUZZFEED (Aug. 18, 2015, 2:18 PM), <http://www.buzzfeed.com/nicolamedinamora/what-freddie-grays-life-says-about-baltimores-justice-system#.dbaN5BL5P>.

<sup>113</sup> Marbella, *supra* note 108.

<sup>114</sup> *Id.*

<sup>115</sup> McCoy, *supra* note 111 ("That's the sad fact to life in the ghetto that the only living conditions people can afford will likely poison their kids. . . . If you only have \$250 per month, you're going to get a run-down, dilapidated house where the landlord hasn't inspected it the entire time they've owned it.")

<sup>116</sup> Tom Cleary, *Freddie Gray Arrest Record, Criminal History & Rap Sheet*, FOX NEWS (Apr. 30, 2015), <http://nation.foxnews.com/2015/04/30/freddie-gray-arrest-record-criminal-history-rap-sheet>. See also McCoy, *supra* note 111 ("A child who was poisoned with lead is seven times more likely to drop out of school and six times more likely to end up in the juvenile justice system.")

<sup>117</sup> WILLIAM JULIUS WILSON, *THE TRULY DISADVANTAGED: THE INNER CITY, THE UNDERCLASS, AND PUBLIC POLICY 4* (The University of Chicago Press 1987).

<sup>118</sup> Wenger, *supra* note 10.

<sup>119</sup> Raj Chetty & Nathaniel Hendren, *The Impacts of Neighborhoods on Intergenerational Mobility: Childhood Exposure Effects and County-Level Estimates*, (May. 2015) (available at [http://scholar.harvard.edu/files/hendren/files/nbhds\\_paper.pdf?m=1430722623](http://scholar.harvard.edu/files/hendren/files/nbhds_paper.pdf?m=1430722623)); see

The authors of this study also note that the best areas for social mobility tend to have lower levels of segregation by race and income, lower levels of income inequality, better schools, and lower rates of violent crime.<sup>120</sup> Moreover, research by the Baltimore Neighborhood Indicators Alliance indicates that neighborhoods with high unemployment rates tend to have “less wealth building opportunities and more residents who potentially need to rely on an informal economy.”<sup>121</sup> Freddie was such a resident, who, with his criminal record, was unable to land a paying job and turned to selling drugs instead.<sup>122</sup> Unfortunately for Freddie Gray, he grew up and died in a neighborhood that never gave him a chance to get out.

*C. The Supreme Court’s reasonable suspicion jurisprudence increased Freddie Gray’s risk of being detained by the police, in whose custody he died.*

The Supreme Court’s reasonable suspicion jurisprudence placed Freddie Gray in the custody of police, where he eventually died.<sup>123</sup> Attorneys for the officers charged in Freddie Gray’s death maintain that police did not need probable cause to arrest Freddie Gray because he fled from the police unprovoked in a high crime area and thus was reasonably suspicious pursuant to the Supreme Court’s ruling in *Illinois v. Wardlow*.<sup>124</sup> Despite the fact that the Supreme Court has

---

also Raj Chetty et al, *The Effects of Exposure to Better Neighborhoods on Children: New Evidence from the Moving to Opportunity Experiment*, NATIONAL BUREAU OF ECONOMIC RESEARCH 39 (May 2015), <http://www.nber.org/papers/w21156.pdf> (finding that children who moved to lower-poverty areas are more likely to attend college, have substantially higher incomes as adults, and are less likely to be single parents).

<sup>120</sup> See Chetty & Hendren, *supra* note 119, at 7.

<sup>121</sup> BALT. NEIGHBORHOOD INDICATORS ALLIANCE, WHAT HAPPENED IN BALTIMORE AND WHAT CAN WE DO? A NEIGHBORHOOD’S PERSPECTIVE 6 (2015), <http://bniajfi.org/wp-content/uploads/2016/01/WhatHappenedInBaltimoreNnHoodPerspectiveFF.pdf>.

<sup>122</sup> Ross, *supra* note 101.

<sup>123</sup> See Christina Serbenz, *A ‘Big Question’ Surrounds the Arrest of Freddie Gray, Which Sparked Riots Across Baltimore*, BUSINESS INSIDER (Apr. 30, 2015, 3:37 PM), <http://www.businessinsider.com/did-police-have-a-right-to-stop-freddie-gray-2015-4> (noting that the ruling in *Illinois v. Wardlow*, which gives cops the right to stop persons for fleeing at the sight of officers if other reasonable suspicious factors exist, is the “root” of what prompted Gray’s arrest).

<sup>124</sup> Ashley Southall, *Freddie Gray Was Injured in Police Van, Baltimore Officers’ Lawyer Says*, N.Y. TIMES (Apr. 23, 2015),

not provided a concrete definition of what constitutes a high crime area,<sup>125</sup> the police contend that Sandtown-Winchester qualifies as such.<sup>126</sup> The Supreme Court first used the term “high crime area” in *Adams v. Williams*,<sup>127</sup> a Fourth Amendment case that expanded the “stop and frisk” concept first articulated in *Terry v. Ohio*.<sup>128</sup> The Court has since expanded its reasonable suspicion jurisprudence to consider the character of the neighborhood, among other things, as a factor in determining reasonable suspicion.<sup>129</sup> While the character of the neighborhood is not the sole factor to justify a stop based on reasonable suspicion, the Court in *Wardlow* held that an individual’s presence in a “high crime area” and his unprovoked flight from police are sufficient for reasonable suspicion.<sup>130</sup>

What characteristics of Sandtown-Winchester make it a “high-crime area”? Scholars have criticized the use of the term as being racially biased.<sup>131</sup> Justice John Paul Stevens, who concurred in part

---

<http://www.nytimes.com/2015/04/23/us/freddie-gray-was-injured-in-police-van-baltimore-officers-lawyer-says.html>.

<sup>125</sup> Andrew Guthrie Ferguson & Damien Bernache, *The “High-Crime Area” Question: Requiring Verifiable and Quantifiable Evidence for Fourth Amendment Reasonable Suspicion Analysis*, 57 AM. U. L. REV. 1587, 1590 (2008).

<sup>126</sup> See Elliot McLaughlin & Ed Payne, *Arresting Officers Provide Statements in Freddie Gray Death*, CNN (Apr. 22, 2015, 10:02 PM),

<http://www.cnn.com/2015/04/22/us/baltimore-freddie-gray-death/> (an attorney for the officers, noted that the officers did not need probable cause to arrest Gray because the police can pursue you if you are in a high-crime area and flee from them “unprovoked”).

<sup>127</sup> 407 U.S. 143 (1972).

<sup>128</sup> 392 U.S. 1 (1968). Terry allowed a police officer to “stop and frisk” a suspect, regardless of whether probable cause for the suspect’s arrest exists, if the police officer believes that criminal activity could be imminent and that the persons involved might be armed and dangerous. *Id.* at 22.

<sup>129</sup> See *Illinois v. Wardlow*, 528 U.S. 119, 124-26 (2000). The Court listed other factors, such as the direction and speed of the suspect’s flight, whether the suspect’s behavior was unusual, and the number of the people in the area. *Id.* at 129-30

(Stevens, J., dissenting)

<sup>130</sup> *Id.*

<sup>131</sup> See Amy Ronner, *Fleeing While Black, the Fourth Amendment Apartheid*, 32 COLUM. HUM. RTS. L. REV. 383, 385 (2001) (“[T]he Wardlow Court effectively removed the protections of the Fourth Amendment from individuals that need it the most, namely minorities who have faced historic discrimination at the hands of the police.”); David A. Harris, *Factors for Reasonable Suspicion: When Black and Poor Means Stopped and Frisked*, 69 IND. L.J. 659, 677-78 (1994) (“It will not surprise anyone who lives or works in an urban center to learn that these areas share another

and dissented in part with the *Wardlow* majority opinion,<sup>132</sup> alluded to the danger of giving police the *per se* authority to stop and detain anyone who flees in a high crime area, given the fact that minorities are likely to flee from police because of the belief that contact with the police can be dangerous.<sup>133</sup> David Harris, author of “Factors for Reasonable Suspicion: When Black and Poor Means Stopped and Frisked” explains that “high crime areas” are concentrated in inner city neighborhoods, which tend to be poorer and lack the infrastructure to support jobs.<sup>134</sup> Further, Blacks and other minority groups tend to reside in the neighborhoods designated as “high crime areas” as a result of racial segregation.<sup>135</sup> It is no surprise then, that police characterized Sandtown-Winchester, now a byproduct of the lingering effects of government-sponsored segregation, a “high crime area” and detained Freddie Gray as a result. Freddie Gray, like many other Blacks in Baltimore, found himself living in such a neighborhood because of deliberate government policies and decisions and suffered as a result.

#### IV. MOVING FORWARD: SHAPING A POST-FREDDIE GRAY BALTIMORE

While segregation ordinances, racially restrictive covenants, and the FHA’s racist practices have largely been outlawed, the effects of these policies and practices continue to plague the City of Baltimore. Research indicates that Baltimore neighborhoods that were

---

characteristic in addition to the presence of crime: they are racially segregated. African Americans and Hispanic Americans make up almost all of the population in most of the neighborhoods the police regard as high crime areas.”); Christopher Slobogin, *The Poverty Exception to the Fourth Amendment*, 55 FLA. L. REV. 391, 405 (2003) (“[L]iving in a high crime (poor) neighborhood, while not sufficient in itself to give police reasonable suspicion to stop individuals, can authorize detention on relatively little else, such as when the person runs from the police, despite the fact that many poor people, especially African American ones in certain urban areas, do not want to deal with the police even when innocent of any crime.”).

<sup>132</sup> 528 U.S. 119, 126 (2000).

<sup>133</sup> *Id.* at 132 (Stevens, J., dissenting) (“Among some citizens, particularly minorities and those residing in high crime areas, there is also the possibility that the fleeing person is entirely innocent, but, with or without justification, believes that contact with the police can itself be dangerous, apart from any criminal activity associated with the officer’s sudden presence.”).

<sup>134</sup> Harris, *supra* note 131, at 677.

<sup>135</sup> *Id.* at 677–78.

redlined in the 1930s suffer from lower rates of homeownership and college attainment and higher rates of poverty and segregation today.<sup>136</sup> To no surprise, Sandtown-Winchester is among those neighborhoods.<sup>137</sup> The next section will discuss possible solutions to remedying the effects of racist housing policies. Following the race riots in the late 1960s, President Lyndon B. Johnson established the National Advisory Commission on Civil Disorders to investigate the causes of the riots and to make recommendations for the future.<sup>138</sup> The commission came to be known as the Kerner Commission, named after its chair, Governor Otto Kerner, Jr. of Illinois.<sup>139</sup> After seven months of investigation, the Kerner Commission released a 426-page report finding that “[o]ur nation is moving toward two societies, one black, one white – separate and unequal.”<sup>140</sup> The report made recommendations on a myriad of topics, including for governments to “invest in housing and jobs programs to improve living conditions for [B]lack people and end the segregation of many urban neighborhoods.”<sup>141</sup>

Part IV.A will explore some of the Kerner Report recommendations and discuss the benefits of expanding Baltimore’s existing rental allowance program in Baltimore. Part IV.B will discuss the accomplishments of the Baltimore Housing Mobility Program and

---

<sup>136</sup> Va. Commonwealth Univ. Ctr. on Soc’y Health, *Baltimore: Redlining and Community Distress*, VCU (2013), <http://dev.humanneeds.vcu.edu/Page.aspx?nav=225>.

<sup>137</sup> *Id.*

<sup>138</sup> See generally The Learning Network, *Kerner Commission Reports on U.S. Racial Inequality*, N.Y. TIMES (Feb. 29, 2012, 4:05AM), [http://learning.blogs.nytimes.com/2012/02/29/feb-29-1968-kerner-commission-report-details-racial-inequality-in-u-s/?\\_r=0](http://learning.blogs.nytimes.com/2012/02/29/feb-29-1968-kerner-commission-report-details-racial-inequality-in-u-s/?_r=0).

<sup>139</sup> Reynolds Farley, *The Kerner Commission Report Plus Four Decades*, UMICH.EDU (Sept. 2008), <http://www.psc.isr.umich.edu/pubs/pdf/rr08-656.pdf>. The members were Otto Kerner (Governor of Illinois), Chairman; John V. Lindsay (Mayor of New York City), Vice Chairman; Fred R. Harris (Senator from Oklahoma); Edward W. Brooke (Senator from Massachusetts); James C. Corman (Congressman from California); William M. McCulloch (Congressman from Ohio); I. W. Abel (President, United Steelworkers of America); Charles B. Thornton (Chairman of the Board of Litton Industries); Roy Wilkins (Executive Director, National Association for the Advancement of Colored People); Katherine G. Peden (Commissioner of Commerce, State of Kentucky); and Herbert Jenkins (Chief of Police, Atlanta, Georgia).

<sup>140</sup> The Learning Network, *supra* note 138.

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

explore the expansion of such a program. Finally, Part IV.C will urge Baltimore officials to consider resuming construction of the proposed Red Line or some other comparable transportation alternative.

*A. Expand Baltimore's Existing Rental Allowance Program (RAP).*

The Commission recommended the expansion and modification of rent supplement programs to permit use of supplements for existing housing.<sup>142</sup> Currently, Baltimore has a program designed “to provide grants to local governments to provide flat rent subsidies to low-income families who either are homeless or have an emergency housing need” called the Rental Allowance Program (RAP).<sup>143</sup> However, only “[a]pproximately 350 families statewide receive assistance via the program in any given month.” (Emphasis added).<sup>144</sup> Currently, Housing Our Neighbors, an activist group in Baltimore is pushing for vacant homes to be taken and turned into affordable permanent housing.<sup>145</sup> In an effort to expand RAP, the Maryland Department of Housing and Community Development should consider partnering with the Baltimore Housing Authority to adopt Housing Our Neighbors’ call to action. Given that Baltimore has approximately 16,000 vacant and abandoned structures,<sup>146</sup> the City has plenty of homes to choose from to renovate and rent as part of the RAP. While the RAP permits the use of existing housing, acquiring funding to renovate vacant homes to make them eligible for the

---

<sup>142</sup> REPORT OF THE NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS 24-25 (Bantam Books 1968) [hereinafter Kerner Report].

<sup>143</sup> Md. Dep’t of Hous. and County Dev., *Rental Allowance Program Fact Sheet*, MARYLAND.GOV, <http://www.dhcd.state.md.us/Website/programs/rap/Default.aspx> (last visited Mar. 3, 2016).

<sup>144</sup> MD. DEP’T OF LEGISLATIVE SERV., OVERVIEW OF HOMELESSNESS AND HOMELESS SERVICES IN MARYLAND 22 (2015), [http://dls.state.md.us/data/polanasubare/polanasubare\\_heandhumser/Overview-of-Homelessness-and-Homeless-Services-in-Maryland.pdf](http://dls.state.md.us/data/polanasubare/polanasubare_heandhumser/Overview-of-Homelessness-and-Homeless-Services-in-Maryland.pdf).

<sup>145</sup> Alana Semuels, *Could Baltimore's 16,000 Vacant Houses Shelter the City's Homeless?*, THE ATLANTIC (Oct. 20, 2014), <http://www.theatlantic.com/business/archive/2014/10/can-homeless-people-move-into-baltimores-abandoned-houses/381647/>.

<sup>146</sup> STEPHANIE RAWLINGS-BLAKE ET AL., BALT. HOUS., BALTIMORE CITY CONSOLIDATED PLAN 2015-2020 61 (2015), [http://static.baltimorehousing.org/doc/plansreports/consolidatedplan\\_2015-2020.pdf](http://static.baltimorehousing.org/doc/plansreports/consolidatedplan_2015-2020.pdf).

program would make possible a major increase of the program without requiring [large] investment in new construction. Further, Baltimore officials should lobby for and support the passage of legislation that prohibits landlords and other property owners from discriminating against persons seeking housing based on source of income.<sup>147</sup> Passage of such a law would create more mixed-income communities and work to break the concentration of poverty in certain areas by giving low-income families the opportunities to live in other neighborhoods.<sup>148</sup> In addition, city officials should consider extending the RAP to create an ownership supplement program in order “to provide home ownership opportunities for low-income families.”<sup>149</sup> As discussed above, homeownership would enable low-income families to begin building wealth<sup>150</sup> and thus gradually help to lift them out of poverty.

There are, however, downsides to implementing the abovementioned solutions. Aside from cost, studies show that neighborhood revitalization initiatives are not the magic bullet. One study in particular focused on the Neighborhood Transformation Initiative, a program that involved construction of new houses for low-income homeowners, modernization of public housing units, and renovation of vacant houses in Sandtown-Winchester.<sup>151</sup> Although the report noted positive results from the initiative, such as a decrease in the poverty rate in the neighborhood, increase in homeownership, and increase in the number of people with high school diplomas and college degrees, it also documented the shortcomings of the initiative, such as a high unemployment rate.<sup>152</sup> The efforts in Sandtown-Winchester demonstrate “the difficulties of overcoming the

---

<sup>147</sup> See S.B. 487, (Md. 2013); H.R. 603, (Md. 2013) (also known as the Maryland HOME Act).

<sup>148</sup> See Public Justice Center, *Maryland HOME Act (Housing Opportunities Made Equal)*, PUBLICJUSTICE.ORG 1, <http://www.publicjustice.org/uploads/file/pdf/HOME%20ACT-Fact%20Sheet%202-12-13.pdf> (last visited Mar. 11, 2016).

<sup>149</sup> *Id.* See also *First Major Housing Bill Since 1968 Enacted*, CQ PRESS (Mar. 5, 2016), <https://library.cqpress.com/cqalmanac/document.php?id=cqal67-1314674> (stating Congress failed to enact a bill proposed by the Senate Banking and Currency Committee “that would establish a program to pay a portion of the mortgage payments of low income families seeking to purchase homes.”).

<sup>150</sup> See *supra* Part II.B.

<sup>151</sup> See generally DeLuca & Rosenblatt, *supra* note 95.

<sup>152</sup> *Id.* at 10.

overlapping disadvantages that accrue in poor segregated neighborhoods, even with ample resources . . . and in full partnership with community members.”<sup>153</sup> Therefore, because there are usually multiple issues at play in these neighborhoods, reform efforts must be holistic instead of singularly focused on abating one issue at a time. Lawmakers should thus not focus solely on housing solutions, but also on developing a plan to coordinate all government programs that address other social issues, such as unemployment, lack of education, and poverty.

*B. Expand the Baltimore Housing Mobility Program (BHMP)*

Baltimore would continue to benefit from an expansion of the Baltimore Housing Mobility Program (BHMP), a program that has been touted as a fair housing success.<sup>154</sup> BHMP was a result of a partial settlement of *Thompson v. HUD*.<sup>155</sup> It “helps current and former public housing families and families on the waiting list for public housing or Housing Choice Vouchers gain access to private market housing in low poverty and predominantly White neighborhoods.”<sup>156</sup> The program requires participants to live in areas often referred to as “communities of opportunities”<sup>157</sup> with a poverty rate less than 10 percent, less than 30 percent African Americans, and where no more than 5 percent of residents receive subsidized housing.<sup>158</sup> The program has proven successful compared to other

---

<sup>153</sup> *Id.* at 11.

<sup>154</sup> See OPPORTUNITY COLLABORATIVE, STRONG COMMUNITIES, STRONG REGION: THE BALTIMORE REGIONAL HOUSING PLAN AND FAIR HOUSING EQUITY ASSESSMENT 41 (2014), [http://www.opportunitycollaborative.org/assets/Strong-Communities-Strong-Region\\_Web\\_Final.pdf?ae56d8](http://www.opportunitycollaborative.org/assets/Strong-Communities-Strong-Region_Web_Final.pdf?ae56d8). See also DIEGO IÑIGUEZ-LOPEZ, THE OPPORTUNITY AGENDA, REALIZING THE PROMISE: HOW TO AFFIRMATIVELY FURTHER FAIR HOUSING 10–11, (2014), [http://opportunityagenda.org/files/field\\_file/2014.11.10\\_realizing\\_the\\_promise\\_final.pdf](http://opportunityagenda.org/files/field_file/2014.11.10_realizing_the_promise_final.pdf).

<sup>155</sup> LORA ENGDAHL, NEW HOMES, NEW NEIGHBORHOODS, NEW SCHOOLS: A PROGRESS REPORT ON THE BALTIMORE HOUSING MOBILITY PROGRAM 1 (2009), <http://www.prrac.org/pdf/BaltimoreMobilityReport.pdf>.

<sup>156</sup> *Id.* at 2.

<sup>157</sup> JOHN A. POWELL ET. AL., COMMUNITIES OF OPPORTUNITY: A FRAMEWORK FOR A MORE EQUITABLE AND SUSTAINABLE FUTURE FOR ALL 1 (2007).

<sup>158</sup> Stefanie DeLuca and Jessi Stafford, *Finding Home: Voices of the Baltimore Housing Mobility Program*, THE CENTURY FOUND. (Mar. 6, 2014), <http://apps.tcf.org/finding-home>.

major housing mobility projects because in addition to providing vouchers, it also provides house searching, post-move, second-move and financial counseling to participants and requires participants to remain in the eligible area for at least two years.<sup>159</sup> Through the program, more than 1,500 poor Black families have moved from racially isolated, impoverished neighborhoods in Baltimore to low-poverty racially integrated neighborhoods.<sup>160</sup> The most recent *Thompson v. HUD* settlement expanded the program to include up to 400 additional families each year, through 2018.<sup>161</sup> The program has resulted in an increase in quality of life, health and educational opportunities for the participants.<sup>162</sup>

Currently, the BHMP's reach is limited since "[t]here is a critical lack of affordable rental housing in low poverty areas."<sup>163</sup> In fact, "[n]ationally, low poverty neighborhoods contain only 39 percent of the rental housing in the nation and only 28 percent of the rental units offered at or below HUD's Fair Market Rent levels (and therefore accessible to voucher holders)."<sup>164</sup> In order to sustain and expand the program, Baltimore lawmakers should consider offering grants, low-interest loans, land write-downs and tax abatements—the same subsidies they offered to the developers of the Inner Harbor—to developers who are interested in building more affordable and

---

<sup>159</sup> *Id.* The other projects include the Housing Choice Voucher Program (HCVP), formerly known as Section 8, the Gatreux Project, and the Moving to Opportunity (MTO) Program sponsored by the U.S. Department of Housing and Urban Development (HUD). *Id.*

<sup>160</sup> ENGDahl, *supra* note 155, at 3.

<sup>161</sup> NAACP Press Release, *supra* note 85.

<sup>162</sup> ENGDahl, *supra* note 155, at 5.

<sup>163</sup> *Id.* at 43.

<sup>164</sup> *Id.* (citing KIRK McCLURE, HOUSING CHOICE VOUCHER MARKETING OPPORTUNITY INDEX: ANALYSIS OF DATA AT THE TRACT AND BLOCK GROUP LEVEL, REPORT TO THE U.S. DEP'T. OF H. AND URBAN DEV., OFFICE OF POLICY DEV. AND RESEARCH (2009)).

subsidized housing in high opportunity areas.<sup>165</sup> Otherwise, the purpose of the program will be frustrated if rental units in high opportunity areas are beyond the means of low-income families.<sup>166</sup> In addition, lawmakers and organizing members should consider adopting a “metropolitan-wide approach” in order to widen the areas of opportunity in which low-income families can live.<sup>167</sup> Currently, public housing residents are given vouchers to move to homes in surrounding suburbs, such as Baltimore County and Anne Arundel County.<sup>168</sup> However, a report prepared by the Baltimore Metropolitan Council found that more than half the Baltimore region’s subsidized private rental units are concentrated within Baltimore City.<sup>169</sup> Further, the opportunities are “for the most part, limited to areas of poverty and minority concentration.”<sup>170</sup> Lawmakers must reorient current programs to expand the areas in which housing for low-income families are built in order to “transcend the city-suburb dichotomy and focus on creating public housing options wherever desegregated,

---

<sup>165</sup> See Marc V. Levine, *The Failure of Economic Development in Baltimore*, MILWAUKEE WIS. J. SENTINEL (May 22, 2015), <http://www.jsonline.com/news/opinion/the-failure-of-economic-development-in-baltimore--and-milwaukeeb99504153z1-304738911.html> (“Baltimore deployed a dizzying array of subsidies — grants, low-interest loans, land write-downs and tax abatements — to entice developers into the Inner Harbor zone and adjacent, gentrifying neighborhoods.”); *but see* Doug Donovan, *Housing Incentive Program Has No Takers*, BALT. SUN (Dec. 26, 2015, 6:00 AM), <http://www.baltimoresun.com/news/maryland/sun-investigates/bs-md-hud-demo-20151226-story.html> (noting that despite the federal government’s new financial incentives for developers to make room for low-income families in buildings constructed in areas of opportunity, no developers have applied for the incentives).

<sup>166</sup> See OPPORTUNITY COLLABORATIVE, *supra* note 154, at 22 (“There are no rental homes in the housing market that are affordable to a family earning 30% of median family income (MFI). This income level includes the typical food prep worker with two children earning \$23,000 a year or a typical retail salesperson with three children earning \$25,000 a year.”).

<sup>167</sup> JON POWELL, REMEDIAL PHASE EXPERT REPORT OF JON POWELL IN THOMPSON V. HUD, 1, 42 (2005), *available at* [http://kirwaninstitute.osu.edu/docs/publications/powellremedialreport\\_submit\\_3\\_10\\_06.pdf](http://kirwaninstitute.osu.edu/docs/publications/powellremedialreport_submit_3_10_06.pdf).

<sup>168</sup> ENGDAHL, *supra* note 155, at 23. Other areas include Howard County, Harford County, and Carroll County. *Id.*

<sup>169</sup> MULLIN & LONERGAN ASSOCIATES INCORPORATED, BALTIMORE METRO AREA ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE 31 (2011), <http://resources.baltimorecountymd.gov/Documents/Planning/neighborhoodimprovement/aicounty111206.pdf>.

<sup>170</sup> *Id.* at 32.

opportunity-rich neighborhoods exist.”<sup>171</sup> One such way would be to encourage more local county boards to enact and enforce inclusionary housing zoning ordinances that require developers to set-aside units for low-income tenants.<sup>172</sup>

State and local red tape and general opposition from residents serve as major barriers to the expansion of the mobility program. Historically, predominantly White, suburban areas have opposed low-income housing.<sup>173</sup> But, as the Kerner Commission noted in its report, “a single society cannot be achieved as long as this cornerstone of segregation stands.”<sup>174</sup> Furthermore, a recent Harvard study found that “offering vouchers to move to lower-poverty neighborhoods to families with young children who are living in high-poverty housing projects may reduce the intergenerational persistence of poverty and ultimately generate positive returns for taxpayers.”<sup>175</sup> Additionally, in Maryland, the current process to affordable housing development in high opportunity areas requires developers to obtain “three levels of local government approval before the Low-Income Housing Tax Credit applications will even be *considered* for funding.” (Emphasis

---

<sup>171</sup> POWELL, *supra* note 167, at 42.

<sup>172</sup> See Doug Donovan, *City Housing Program Stirs Fears in Baltimore County*, BALT. SUN (Dec. 14, 2015), <http://www.baltimoresun.com/news/maryland/bs-md-housing-mobility-20151214-story.html>; see also Gregory Friedman, *Inclusionary Housing in Baltimore*, CITIZENS PLANNING & HOUSING ASS'N (June 19, 2014), <http://www.cphabaltimore.org/2014/06/inclusionary-housing-and-baltimore/>. In 1974, Montgomery County, Maryland passed an ordinance requiring that a percentage of new housing units be developed for low- and moderate-income families. Montgomery, Md. Code 25A-8(b). The county's inclusionary zoning has produced over 12,500 affordable housing units and made those units well integrated with market-rate housing. Nat'l Low Income Housing Coalition, *40 Years Ago: Montgomery County, Maryland Pioneers Inclusionary Zoning*, NLHIC (May 16, 2014), <http://nlhlc.org/article/40-years-ago-montgomery-county-maryland-pioneers-inclusionary-zoning>.

<sup>173</sup> See Kerner Report, *supra* note 142, at 482 (“Nonghetto areas, particularly suburbs, for the most part have steadfastly opposed low-income, rent supplement, or below market interest rate housing, and have successfully restricted use of these programs outside the ghettos.”); see also Donovan, *supra* note 172 (“We have worked for years in order to have a house in the county, and the government is pushing people out here,” [a resident of a Baltimore County suburb] said. “They don't deserve to have what my family worked hard for. It's a shame we didn't know about this ahead of time. I would have been right there protesting.”).

<sup>174</sup> See Kerner Report, *supra* note 142, at 475.

<sup>175</sup> Chetty et al., *supra* note 119, at 1.

included).<sup>176</sup> This process arguably discourages developers from expending the resources necessary to develop affordable housing in communities of opportunity.<sup>177</sup> Accordingly, efforts to expand the program will continue to be impeded by a lack of affordable housing units unless lawmakers relax the requirements for approving funding.

*C. Resume Construction of the Red Line or Some Other  
Comparable Transportation Alternative*

Discrimination in public transportation, along with housing, has long plagued Baltimore and its residents.<sup>178</sup> Governor Larry Hogan's cancellation of the plans to construct the Red Line set back a significant step toward remedying segregation in Baltimore. According to a complaint filed by the Baltimore Chapter of the NAACP against the State of Maryland, the Red Line was designed with intentions to improve accessibility and decrease commute times "in one of the most congested and poorly-served areas of the Baltimore region."<sup>179</sup> A study conducted by the Baltimore Neighborhood Indicators Alliance-Jacob France Institute (BNIA-JIA) found that workers are more likely to become unemployed as a result of long commute times, since longer commutes can be a barrier to getting to work on time, especially if they depend on public transportation to get to work.<sup>180</sup> Sandtown-Winchester, Gray's neighborhood, is known to be such a neighborhood, where over 30 percent of its residents who are lucky to even have jobs must travel 45 minutes or more to work and over 43 percent use public transportation

---

<sup>176</sup> ENGBAHL, *supra* note 155, at 44.

<sup>177</sup> *Id.*

<sup>178</sup> See Jonathan S. Bass, *Transportation Discrimination*, in 3 ENCYCLOPEDIA OF CIVIL RIGHTS IN AMERICA 850, 852 (David Bradley & Shelley Fisher eds., 1998), [http://studythepast.com/civilrights/cases/transportation\\_discrimination.pdf](http://studythepast.com/civilrights/cases/transportation_discrimination.pdf); see also Corinne Ramey, *America's Unfair Rules of the Road: How Our Transportation System Discriminates Against the Most Vulnerable*, SLATE (Feb. 27, 2015 3:33 AM),

[http://www.slate.com/articles/news\\_and\\_politics/politics/2015/02/america\\_s\\_transportation\\_system\\_discriminates\\_a\\_gainst\\_minorities\\_and\\_poor.html](http://www.slate.com/articles/news_and_politics/politics/2015/02/america_s_transportation_system_discriminates_a_gainst_minorities_and_poor.html).

<sup>179</sup> Complaint Pursuant to Title VI of the Civil Rights Act of 1964 at 8, Balt. Regional Initiative Developing Genuine Equality, Inc., et al., v. State, , [http://www.naacpldf.org/files/case\\_issue/Baltimore%20-Red-Line-Complaint.pdf](http://www.naacpldf.org/files/case_issue/Baltimore%20-Red-Line-Complaint.pdf) (last visited Mar. 11, 2016) [hereinafter Complaint].

<sup>180</sup> *Id.* at 9.

to get to work.<sup>181</sup>

The planned Red Line would not only have reduced commute times for residents in economically devastated communities, but it would have also connected these communities to job centers. Resuming construction of the Red Line or some other comparable alternative would have a positive impact on neighborhoods like Sandtown by providing a quicker and more reliable link to the regional job centers<sup>182</sup> outside of those communities, where less than two percent of jobs within the Baltimore metropolitan area are located.<sup>183</sup> Some may argue that Governor Hogan's Baltimore LINK Program, a \$135 million transportation plan, should suffice. However, the plan is half the price of the proposed Red Line and to no surprise does not carry with it half of the planned benefits of the Red Line.<sup>184</sup> In fact, from the preliminary details released about the plan, it appears to do more harm than good for the very communities the Red Line was designed to assist.<sup>185</sup> Governor Hogan has the right idea to overhaul the transportation system in Baltimore, but he needs to think bigger and longer term to improve neighborhoods like Sandtown-Winchester.

## V. CONCLUSION

The City of Baltimore has suffered from nearly a century of government-sanctioned racial segregation. The effects of segregation ordinances, racially restrictive covenants, and unfair FHA practices are present in the impoverished and segregated communities of today, such as Sandtown-Winchester—Freddie Gray's neighborhood. While expanding programs such as the RAP and the BHMP and adopting a transportation plan like the Red Line will not completely reverse the effects of segregation, it serves as a major step toward giving

---

<sup>181</sup> BALT. NEIGHBORHOOD INDICATORS ALLIANCE, *supra* note 121, at 11.

<sup>182</sup> See OPPORTUNITY COLLABORATIVE, BALTIMORE REGIONAL PLAN FOR SUSTAINABLE DEVELOPMENT 15 (2015), [http://www.opportunitycollaborative.org/assets/RPSD\\_Final\\_June\\_2015.pdf?ae56d8](http://www.opportunitycollaborative.org/assets/RPSD_Final_June_2015.pdf?ae56d8) (noting the benefits that the Red Line would have).

<sup>183</sup> Complaint, *supra* note 179, at 9.

<sup>184</sup> Michael Dresser, *Some Riders Aghast at Hogan's Proposed Bus Changes*, BALT. SUN (Nov. 12, 2015, 7:57 PM), <http://www.baltimoresun.com/news/maryland/politics/bs-md-bus-overhaul-20151111-story.html>.

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

thousands opportunities to escape the conditions Freddie Gray endured until his demise.