

# **Demographic Perspectives on Diversity, Racial Isolation, and the Seattle School Board's Plan to "Cure" Residential "Segregation"**

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The United States Commission on Civil Rights briefing for which this paper was written was framed as a discussion of "the benefits of diversity in elementary and secondary education." I take this formulation as overhasty shorthand for a broader consideration of this controversial topic. Surely any serious exploration of the issues must give attention to the *costs* as well as the *benefits* of diversity. Furthermore, the important question for the formulation of public policy is not the effects of diversity in general; it is the question of the efficacy of engineering diversity in educational institutions by using the power of the state to exclude children from certain schools because of their race or ethnicity. Whatever benefits might flow from diversity that "comes naturally," it does not follow that diversity created by compulsory race-driven pupil assignment plans will have the same impact.

The costs of engineering racial balance in our public schools are high, I believe, and they far outweigh any benefits that can be demonstrated from the existing social science literature. Telling families that the race of their children bars them from attending a school they prefer is morally repugnant and probably unconstitutional. When a school district has deliberately segregated students by race, race-conscious policies may be required to remedy that wrong. But in the absence of that intentional segregation, race-based pupil assignments denies a fundamental right guaranteed by the equal protection clause of the Fourteenth Amendment.

Furthermore, it must be remembered that race-conscious admissions policies often fail to produce the racial balance for which they are designed. Parents vote with their feet. The problem is commonly called "white flight," but in fact the "flight" is by parents of all races who have the resources to afford private school, to home-school their child, or to move to the suburbs. Boston is a classic example, where a majority-white system was quickly transformed into one in which white enrollments barely reach the double digits. Black, Latino, and Asian parents with incomes above the poverty line joined whites in abandoning the Boston public schools, with only a pyrrhic victory for integration.<sup>1</sup> "We had to destroy the village to save it."

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<sup>1</sup> Stephan Thernstrom and Abigail Thernstrom, *America in Black and White: One Nation, Indivisible* (Simon and Schuster, 1997), 331-337.

Four key terms have been thrown about with casual abandon in the record of *Parents Involved v. Seattle School District*: "diversity," "racial isolation," "racial quota," and "de facto residential segregation." I offer some observations to clarify these murky concepts, and provide some basic demographic information of central relevance to the dispute.

## I. Measuring Diversity

Diversity is an astonishingly elastic and amorphous concept. If our constitutional right to the equal protection of the laws can be suspended whenever an instrument of government makes the claim that it is acting to enhance diversity, we should be worried.

Policies that purport to enhance diversity are difficult to evaluate, because the concept is rarely given a clear operational definition. The sharpest and clearest definition of a diverse population is one that precisely mirrors the composition of the total population in all of the characteristics thought to be relevant. A large random sample of the population of the United States would fully capture its diversity, within the range of the sampling error. If all students in the Seattle Public Schools were randomly assigned to a high school and given no other choice, each school would mirror the diversity of the city's public school population of high school age.

In practice, though, it likely would not do so. Some parents would likely refuse to let their child attend the designated school. Their refusal could produce considerable slippage, so that the actual population attending the public high schools of the city would deviate somewhat from the perfect diversity the pupil assignment plan sought to create.

How much deviation from pure proportional representation can be allowed without losing the alleged diversity benefits the plan seeks to provide? No one can say with any authority, but the Seattle School Board purports to know. When the present suit was filed, Seattle school officials allowed a deviation of plus or minus 10 percent in the proportion of white pupils and students of color in any particular school. For the 2001-2002 school year, with a legal challenge to its plan pending in court, the board broadened the band of possible deviation to plus or minus 15 percent. Where did the original 10-point formula come from? Why the change to 15 points? Not from any evidence about how the alleged educational and social benefits of diversity would be affected. Judge O'Scannlain's opinion for the Ninth Circuit panel reports that the School Superintendent had strongly recommended that the band of permissible deviation be increased even more, to 20 percent, because he was convinced that such a broadening would not diminish the benefits of diversity.<sup>2</sup> (It is unclear what evidence he considered in reaching this conclusion.) The board was unmoved by his argument and settled upon 15 percent. Thus the school district over the years has arbitrarily decided, without benefit of any evidence that has been made public, exactly how many of the city's students would be assigned to a high school on the basis of the color of their skin or ethnic origins. Whether

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<sup>2</sup> 377 F.3d 949

the board broadened the band, narrowed the band, or left it unchanged, we are expected to believe that they have always acted so as to maximize diversity.

Added to the sheer arbitrariness of the school board in fixing the band of possible deviation from strict proportional representation is an equally arbitrary fixation on race/ethnicity as the only kind of diversity that schools require. This criticism has been well developed in the majority opinion of the Ninth Circuit panel and in some of the dissents in the Ninth Circuit's *en banc* opinion, and I will not dwell on it here. Suffice it to say that social class, poverty status, and the language spoken in the home of students are surely elements of any meaningful conception of diversity; so too is religion. Race is far from the sole basis of social division in our society. If school authorities are allowed to say that a certain school is unavailable to a child because it has "enough" whites already, would it be equally acceptable to deny a pupil's choice because the school had "enough" Jews or Catholics?

Even if we were to accept the board's narrowing of the concept of diversity to apply to groups based on race or ethnicity, an even more troubling feature of the Seattle plan is the astonishing crudity of the racial classifications used to determine which pupils may attend "oversubscribed" schools—those with more applicants than empty seats. Although the city's public schools employ several racial and ethnic categories in collecting data about their students, the fine distinctions made in the school records are ignored when it comes to engineering diversity in the high schools. Instead, race is simplified into a binary category; students are either white or "of color," and that's all that matters. African Americans, Alaskan Natives, Cambodians, Dominicans, Filipinos, Koreans, and Samoans, in the eyes of the school board, have so much in common that they are interchangeable for this purpose. No effort is made to balance the distribution of each of these and other racial groups across schools. For some reason, the school system pays no heed at all to the manifest diversity *within* the "student of color" category. In its parochial view, diversity stops when you cross the color line. No school is allowed to have "too few" or "too many" whites; once there are enough whites to fall within the arbitrarily determined band of permissible deviation, diversity has been assured. Schools that have three times as many Asian as black students or three times as many black as Asian students are not regarded as problematic at all, though it could easily be argued that such imbalances diminish diversity and reduce interracial contact.

It is passing strange in the opening years of the twenty-first century to have public policies framed in the bipolar racial terms appropriate in Mississippi half a century ago. At the time of *Brown v. Board*, the United States was a basically biracial society (though there were always people who didn't fit in either category). But that is hardly true any more, and certainly not true in Seattle. The largest minority population enrolled in the Seattle public schools consists of Asian Americans, 23 percent of the total, just a shade above the African American proportion. But the school authorities apparently view Asians as somehow racially disadvantaged and in need of the leavening presence of white classmates, even though their educational performance matches or exceeds that of whites, and their parents are both more highly educated and more affluent than the typical white

American.<sup>3</sup> (Note that Asian Americans account for half of enrollments at both Berkeley and UCLA today, and that non-Hispanic white students are in fact an "underrepresented minority," although the University of California refuses to call them that.) Since the 1970s, all federal agencies have been required to gather statistical information about the race and ethnicity of the citizens they serve, distinguishing at a minimum whites, African Americans, American Indians, Asians, Latinos, and persons of mixed race. Why Seattle's schools ignore these distinctions is a puzzle.

A Seattle high school with a student body that is 26 percent white and 74 percent Asian American has "enough" whites to be adequately balanced racially, and so too does one that is 26 percent white and 74 percent African American. Both schools offer the alleged educational and social benefits of diversity, and are indistinguishable when viewed through the curious spectacles worn by members of the Seattle School Board. And if white enrollment were allowed to slip two or three points lower in these two schools, both would suddenly become "racially concentrated" schools and hence lacking in diversity. The tool Seattle has chosen to meet its diversity goals is a very dull axe that is only capable of chopping a log into two large chunks.

It is difficult to fathom how school officials who have striven for decades to create racially integrated schools and who profess a deep attachment to fostering diversity could be so locked into seeing the world in black and white terms—so oblivious to the profound cultural and socioeconomic differences within the "students of color" category. Seattle's pupil assignment scheme is a relic of another era. If it is not abandoned altogether, as I would prefer, it surely needs to be redesigned to reflect the far more complex racial scene today. If engineering diversity has all the benefits that defendants in this case claim, then they need to put in place a racial balance plan that is sensitive to current realities.

## II. The Problematic Concept of "Racial Isolation"

Seattle's school officials employ the indefensibly crude "students of color" category because they have such a constricted, white-focused vision of what diversity means. Their diversity policy amounts to nothing more than spreading white students as broadly as possible across the city's high schools. That obsession with whites explains the school board's curious and counter-intuitive notion of "racial isolation." The Seattle plan assumes that kids in a school that is 30 percent black, 30 percent Asian, 20 percent Latino, and 20 percent white are "racially isolated" because they attend a "racially concentrated" school. Students attending a school that is 25 percent white and 75 percent African American, though, are not racially isolated. Yet the former surely offers its students much greater opportunity for interracial contact than the latter. The latter avoids being classed racially concentrated simply because it has a few more whites than the former; that it lacks the diversity that would be added by the presence of Asian American and Latino students does not register in the binary pupil assignment system used in Seattle.

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<sup>3</sup> The Asian American academic success story is reviewed in detail Abigail Thernstrom and Stephan Thernstrom, *No Excuses: Closing the Racial Gap in Learning* (Simon and Schuster, 2003), ch. 5.

The Seattle plan is designed to reduce "racial isolation." Racial isolation certainly sounds like a bad thing, on the face of it. But in fact this concept is measured in a curious and highly questionable way in scholarly studies of both residential patterns and schools. The values generated by the standard Index of Isolation in any community are largely determined by the overall racial composition of the population of the unit under study. Cities with overwhelmingly white populations will normally have a low isolation index; those with comparatively small white populations will invariably have a high one. An Index of Isolation of blacks from whites tells us how many whites attend the school of the typical black student or live in the same census tract as the average black resident. Thus its level depends upon the supply of non-Hispanic whites within the system. It is a measure of minority exposure to whites. For reasons that are never adequately spelled out, a high level of minority exposure to whites is taken as a measure of the social health of a community. This tacitly assumes that minorities will lead unsatisfactory lives without the benefit of frequent interactions with white people, the more frequent the better.

The oddity of this measure as an indicator of the quality of life for minorities in a community is evident from the studies of residential patterns using the 2000 Census data. If African Americans truly benefit from residing in places with a low Index of Isolation and hence very high exposure to whites, the Orange County, California Metropolitan Statistical Area was the best place for them to have to lived in 2000. The Salt Lake City-Ogden, Utah metropolitan area came in a close second. By this odd way of measuring isolation, blacks were hardly isolated in these communities for the simple reason that black families were very few and far between.<sup>4</sup> The greater their *isolation from members of their own race*, strangely enough, the less isolated they were, as measured by the isolation index.

Despite the very low isolation indexes for African Americans in places like Orange County and Salt Lake City, the news has not inspired a mass migration of blacks determined to escape the "racial isolation" they must live with in New York, Chicago, and Detroit. Indeed, a wealth of evidence about black preferences indicates that very few blacks wish to reside in heavily white neighborhoods. Most prefer places in which the racial mix is roughly half and half, and that very few wish to be in neighborhoods in which their numbers are small. A 2003 Gallup poll, for example, found that just 4 percent of African Americans wished to live in a neighborhood composed "mostly" of people of a different race, just what they would find in Orange County and Salt Lake City.<sup>5</sup> And just what they would find in many north Seattle neighborhoods as well. Nor is there evidence that Koreans, Dominicans, and other recent immigrant groups wish to have a great many more white neighbors than they currently have. Substantial numbers of them choose to live in ethnic enclaves with others of similar background, in the same manner as immigrants did a century earlier.

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<sup>4</sup> U.S. Bureau of the Census, Census 2000 Special Reports, *Racial and Ethnic Residential Segregation in the United States: 1980-2000*, Series CNSR-3 (Washington, D.C. 2002), Table 5-4.

<sup>5</sup> The Gallup Organization, *Civil Rights and Race Relations*, 2004, 76.

Those who place a high priority on reducing racial isolation measured in this odd way implicitly assume that identifiably ethnic neighborhoods, schools, churches, social clubs and mutual benefit societies are obstacles to an integrated society. The only solution to racial and ethnic tensions, in their mind, is the abolition of social groups based on race or national origin, and their complete absorption into the white majority.

Note that this definition of racial isolation is in direct opposition to the meaning of the term as used in arguments involving racial preferences in admissions to higher education. Selective colleges and graduate schools, it is commonly said, need a "critical mass" of underrepresented minority students so to keep such students from feeling racially isolated. The solution is to admit more students of their race. And yet any increase in minority enrollments will increase their isolation from whites as measured by the standard Index of Isolation.

What is this old white magic that has the Seattle School Board and some judges in its spell? The share of non-Hispanic whites in the population of the nation has plunged over the past four decades. The shift in population composition has been particularly great in our metropolitan centers, and greatest of all among the school-age population. Only 55 percent of American children under the age of five were non-Hispanic whites in 2005, and the proportion will continue to decline. In 2004, non-Hispanic whites under the age of 15 were outnumbered by minority children in 27 of our largest metropolitan areas, and these figures include the suburbs.<sup>6</sup>

In the central cities, the declining demographic significance of whites is even more pronounced. As of 2001, only one of the 27 largest urban school districts in America had a white majority—Salt Lake City—and an average of only one out six students in the other 26 districts was white.<sup>7</sup> It is time to reconsider the unfounded assumption that white pupils are a precious resource that must be distributed as evenly as possible across schools, even if denying them choices available to students of other races may lead them to abandon the city public schools altogether. There can be doubt that the future will see even fewer white students in the nation's urban public schools. If the learning of students of other ethnic/racial background will somehow be hampered in the absence of an adequate supply of white students, the future is bleak. But there is no compelling body of social science evidence demonstrating that minority achievement depends upon white magic.

### III. Does the Seattle Plan Employ Racial Quotas?

The district Court judge in this case argued at length that the city's school officials did not make use of racial quotas. According to her, a quota is rigid, inflexible, precise. In contrast, Seattle set a broad band for the proportion of whites and students of color at each high schools, which posed no constitutional problem, she said.

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<sup>6</sup> William H. Frey, "Diversity Spreads Out: Metropolitan Shifts in Hispanic, Asian, and Black Populations Since 2000," Metropolitan Policy Program, Brookings Institution, March 2006.

<sup>7</sup> Thernstrom, *No Excuses*, 173.

To determine what constituted a quota, the judge relied upon a number of dictionaries but ignored history. The most infamous quotas in American educational history—the Jewish quotas employed by most highly selective colleges and graduate schools from approximately World War I down to the 1950s—were not quotas at all by her definition. The Yale Admissions Committee, after all, was not instructed to make sure that exactly 5 percent—no more, no less—of the entering freshman class was Jewish. Yale instead had a ceiling of 5 percent for Jews; Harvard, the most liberal of the Ivies had a 10 percent ceiling. Yale really operated with a flexible band, that ranged from zero to 5 percent, and Harvard was even more flexible, with a band extending from 0 to 10 percent. Those colleges, she would have to say, only set broad and flexible goals, in an effort to preserve diversity and prevent ethnic imbalance in their student bodies.

Furthermore, the Seattle program *does* employ a fixed quota in the narrow sense of the term when closely examined. Although the band of allowable deviation in the plan under challenge is fairly broad, each of the five oversubscribed high school schools in the city has a precise racial quota. Once a school's white enrollment hits the 55 percent ceiling, no whites at all can be added, only students of color. Conversely, when minority enrollment at a particular school hits the 75 percent ceiling, no students of color can be accepted. In either case, at some point there is a precise quota of zero for students based solely on their race or ethnicity.

#### IV. "Curing" Residential Segregation

The district court opinion devoted considerable space to arguing that the Seattle Public Schools did not try to engineer racial balance in the schools for its own sake. Instead, she contended, the high school assignment plan was an effort to address the larger problem of residential segregation, an attempt to "cure de facto segregation." This broad aim, she maintained, demonstrated that more than racial balancing for its own sake was involved.

The legal argument strikes this non-lawyer as quite silly. Has there ever been a system-wide racial balancing plan that did not purport to offset or mitigate the effects of residential segregation? Such plans only appear in communities in which minority groups are clustered in certain areas and absent from others. If there were zero neighborhood segregation to begin with, neighborhood schools would all be racially balanced because the neighborhoods from which they drew their pupils would have been racially balanced. Integration would be a fact, and no plan would be needed to engineer it.

Furthermore, the district court made only the feeblest effort to support the premise that Seattle was indeed a segregated city, and that its residential segregation was a serious social problem. Only one piece of evidence was mentioned in her opinion: The white population was disproportionately concentrated in north Seattle and various minority groups tended to live to the south of them.

If American cities fall into only two categories, segregated and not-segregated, this datum may be sufficient to establish that Seattle is residentially segregated. The trouble with such a simple dichotomy is that it would be impossible to find any American city—indeed, any city in the world—without any trace of residential clustering of particular subgroups of the population. The not-segregated category would thus be empty, and we could leap to the conclusion that racial balancing of the schools is a remedy universally needed to cure the American urban ill of neighborhood segregation.

This conception of segregation is much too simplistic. The record of this case would be more useful if it included evidence of two kinds. First, evidence is needed to assess exactly *how* "segregated" Seattle is compared to other American cities. Second, it needs to be demonstrated, rather than assumed, that the degree of racial and ethnic residential clustering that currently exists in Seattle is harmful to the city's residents. The court terms the school assignment plan a "cure," but fails to tell us what damage the alleged disease does. Nothing in the record suggests that the minority populations are disproportionately concentrated on the south side because, while they actually wish to reside in predominantly white neighborhoods to the north, they have been prevented from doing so. Can it be shown that people of color live where they do because whites don't want them as neighbors and have somehow managed to bar their entry?

Regrettably, plaintiffs in the case failed to challenge the defense's contention that residential segregation is a serious problem in Seattle, and offered no expert testimony that would permit a more nuanced analysis of this very important issue. Plaintiffs could have developed a powerful argument along the following lines.

The returns from the 2000 Census have been thoroughly analyzed by now, and a number of investigators have calculated various measures of residential segregation for all major American metropolitan areas, including Seattle. The most authoritative is the Census Bureau's own study, *Racial and Ethnic Residential Segregation in the United States: 1980-2000* and its results are highly instructive and pertinent to this case.

The most commonly used measure of residential segregation is the Index of Dissimilarity (DI). It has its drawbacks, because it measures the extent to which the residential patterns of two particular racial groups deviate from each other and makes an identical distribution the implicit ideal. This is a serious flaw in examining a multiracial, multicultural society made up of many groups that have their own institutions and distinctive cultural preferences. Nevertheless, it is a standard tool and it does tell us something significant about a community.

The Census Bureau study identified the largest American metropolitan areas with major concentrations of minority residents. In terms of black/white segregation, Seattle's DI of .489 ranked it the 37th lowest out of the 43 metropolitan areas that had at least 20,000 African American residents. The DI for Detroit, which headed the list, was .846, for Milwaukee it was .818, for New York .810. For African Americans, Seattle was thus among the half a dozen or so *least segregated* cities in the U.S. By the other most widely

used measure, the Isolation Index, Seattle was even closer to the bottom on the national black-white segregation scale, 39th out of 43.

Latinos in Seattle were even less segregated by national standards. In the Census Bureau study, 36 major metropolitan areas had enough Hispanic residents to be included. Seattle ranked the 35th lowest in the nation on the DI for Hispanic-white segregation, and 34th lowest on the Isolation Index.

The same holds for Asian Americans in Seattle, with only a slight qualification. Just 20 large metropolitan areas had enough Asian American residents to be included in the study. Seattle ranked as the 19th least segregated out of 20 in its DI for Asians. Its isolation index for Asians, though, was towards the middle of the pack; it ranked #9. Like other West Coast cities, it has a large Asian population, and the Isolation Index is very sensitive to group size; in general, the larger the minority group the more likely they are to be "isolated" from white people. Most of the highest isolation indexes for Asians are to be found in California cities, with San Jose standing at #1, San Francisco #2, Los Angeles #3, and Oakland #5.

In sum, by national standards Seattle clearly ranks among the least segregated large metropolitan areas in the United States. If assigning pupils to schools on the basis of their race is legitimate in a city with segregation levels as low as those in Seattle, then it would have to be considered legitimate in just about any large city in the country.

What are the concrete harms of Seattle's comparatively low level of ethnic and racial segregation by neighborhood? The Seattle School Board assumed that it was somehow damaging that more whites than minorities lived on the north side of town, but provided no evidence whatever that anyone was harmed by this pattern. The board never entertained the possibility that contemporary immigrants find a certain comfort in living near substantial numbers of their ethnic compatriots, just as the Irish, German, Italian, Polish and other immigrant groups did at an earlier point in our history. Louis Wirth's 1928 classic, *The Ghetto*, after all, was not a study of Chicago's Black Belt but of its Jewish community. Most of the classic ethnic ghettos faded away in time, but many groups continued to cluster to a greater or lesser degree. Close to a century after East European Jews arrived in Boston in large numbers, the cities of Brookline, Newton, and Sharon, Massachusetts still have heavily Jewish neighborhoods. Revere and Lynn, Massachusetts similarly have distinct Italian neighborhoods. Such residential clustering is clearly voluntary, and one has to wonder what evidence led Seattle's school authorities to conclude that the very modest levels of residential segregation in their community amounted to a disease that required a "cure."

It could be argued, of course, that African Americans are quite different from the immigrants of the past and present—that prejudice and discrimination has confined them to ghettos that are different in kind from immigrant enclaves. (This, of course, would suggest that the "students of color" category be abandoned, and that a more modest quota setting a floor and ceiling on black enrollments in each high school be substituted for the present plan.) There is something to this claim, but it is too simple. With strong national

laws barring discrimination in real estate transactions and a steep decline in prejudicial attitudes in the society at large, it can be argued that blacks today have a different residential distribution than whites largely because most of them have no desire to be dispersed evenly across the urban landscape and to live in heavily white neighborhoods.<sup>8</sup> Scholars continue to debate this complex issue, but the question does not seem to have been examined at all by the Seattle School Board.

Does Seattle have a black ghetto? Douglas Massey and Nancy Denton, the authors of the widely cited study, *American Apartheid: Segregation and the Making of the Underclass* (1993) define a "ghetto" as "a set of neighborhoods that are exclusively inhabited by members of one group, within which virtually all members of that group live."<sup>9</sup> In a subsequent publication, Massey declared that in "hypersegregated" American metropolises today blacks "live within large, contiguous settlements packed tightly around the urban core. Inhabitants typically would be unlikely to come into contact with non-blacks in the neighborhood where they live. If they went to the next neighborhood beyond that, no Whites would be there either. If they were to travel to an adjacent neighborhoods, no Whites would be there either."<sup>10</sup>

Whether anything resembling this dire picture of extreme racial isolation and exclusion exists in Seattle may be determined by a close inspection of the 2000 Census returns by census tract. A convenient link to these data is provided on the Seattle school district's web site, though it is hard to believe that anyone with authority there actually studied the numbers. Seattle had 121 census tracts, which averaged about 4,500 people in each. A review of the racial composition of these 121 tracts does not suggest a city in which African Americans or any other group within the school board's hopelessly crude "people of color" category are shut out of most neighborhoods and confined to a few areas in which they are isolated from the life of the city.

The first thing that leaps out from the numbers is that not a single tract in the city had no black residents in 2000, and in almost all cases the African-American numbers were significant. If we take a minimum of 50 people as a reasonable way of screening out tracts with just one or two token black families, we find that just seven of the 121 tracts in the city lacked a significant black population, and none of the seven had fewer than 20 black residents.

Nor were there any tracts without any Latino residents. Hispanics, in fact, were more broadly dispersed than the larger African-American population. Only 2 of the 121 tracts had fewer than 50 Latino residents (and those two had 38 and 45).

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<sup>8</sup> Thernstrom, *America in Black and White*, 219-230.

<sup>9</sup> Douglas S. Massey and Nancy Denton, *American Apartheid: Segregation and the Making of the Underclass* (Harvard University Press, 1993), 18-19.

<sup>10</sup> Douglas S. Massey, "Residential Segregation and Neighborhood Conditions in U.S. Metropolitan Areas," in Neil J. Smelser, William Julius Wilson, and Faith Wilson, ed., *America Becoming: Racial Trends and their Consequences* (National Academy Press, 2001), 410.

Asian Americans were still more broadly dispersed, not surprising perhaps in light of their generally higher income and educational levels. Not a single tract in the city had fewer than 100 residents of Asian background.

It is worth inspecting the residential distribution of African Americans in Seattle in a little more detail, because concern over black ghettos underlies most discussions of housing segregation. Looking closely at the census tracts inhabited largely by blacks in 2000 suggests some important conclusions. It is apparent, first of all, there is nothing remotely resembling a black ghetto in Seattle, if we use the Massey and Denton definition—an area that is exclusively black and that contains virtually all of a city's black population. Indeed, just one census tract in all of Seattle had a black majority, and that tract (#8800) had a slender majority of African American residents—54.9 percent. The tract contained a mere 3.4 percent of the city's total black population.

Even in this census tract, the closest thing to a ghetto Seattle has to offer, blacks were not enclosed in a social world in which they rarely encountered white people. Furthermore, the remaining 45 percent of the residents of Tract #8800 were not all other "people of color." In fact, three quarters of them were non-Hispanic whites.

The second most heavily African-American tract in Seattle was #8900. Just 40.4 percent of its residents reported their race as black alone, and another 4.4 percent said that were a mixture of black and another race, for a total of 44.8 percent. They barely outnumbered whites in the tract, who accounted for 40.5 percent of the total. The tract was also home to sizable numbers of Asians and Pacific Islanders (8.6 percent), Latinos (6.6 percent), and American Indians/Alaskan Natives (2.6 percent). In short, it appears to have been a Melting Pot neighborhood par excellence. It is hard to say that this tract was not a thoroughly integrated residential area, even though it had a lower proportion of white residents than the city population as a whole.

A final locale worthy of scrutiny is census tract, #11800, one of the most heavily populated tracts in Seattle and the one with the highest absolute number of black residents. Here African Americans made up 36.1 percent of the population, with almost as many Asians and Pacific Islanders (30.7 percent). Non-Hispanic whites made up 21.7 percent of the total, with another 8.6 percent Latino and a small number of American Indians/Alaskan natives. Again, this seems a highly integrated residential area, even though it has fewer whites than tracts #8800 or #8900.

## V. Methodological Problems in Measuring the Social Benefits of Diversity

As David Armor's paper for this briefing well demonstrates, a balanced appraisal of the social science literature on the effects of diversity on student learning reveals no scholarly consensus that schools with diverse student bodies promote greater student achievement than those with more homogeneous populations. Furthermore, most studies that show educational benefits lack adequate controls for selection bias. Since students rarely attend the schools they do because they were randomly assigned to them, it is impossible to measure diversity effects by simply comparing those attending diverse

schools, however they are measured, with those in a truly comparable control group who were not.

Armor's analysis of the 2003 NAEP results, it should be underscored, not only finds no educational benefits from greater diversity for Latino pupils; it finds just the opposite. Latino students performed best when they attended heavily Hispanic schools. If this finding could be replicated with other data, it would suggest that Latinos actually suffer educationally from being the beneficiaries of racial balancing plans.

Similar questions about the educational benefits of diversity are raised by two recent papers on black and white student achievement by the economist Thomas S. Dee, an associate professor at Swarthmore College and a Faculty Research Fellow at the National Bureau of Economic Research. Both studies appeared in highly respected economics journals—*The Review of Economics and Statistics* and the *American Economic Review*.<sup>11</sup> The first examined the achievement of Tennessee students in grades K-3 in the late 1980s and 1990s, and found that black students performed significantly better when their teachers were black, and that white students learned more from white teachers. Dee then extended his research to the national level, using the 1988 National Education Longitudinal Study, and found the same pattern among middle and high school students. If his findings could be generalized, they would establish that diversity at the classroom level is educationally harmful. It would be logical to conclude that racially segregated classes taught by teachers whose race matched that of their students would significantly promote academic achievement. Racial balancing, at least at the classroom level, would be positively counterproductive.

Suppose that a Tennessee school district aware of this research decided to use race as a basis for assigning students to particular classes, strictly segregating them and their teachers in order to improve learning. If the plan were challenged in court, school officials could argue that race is admittedly a suspect category, but that social science had demonstrated that their plan had educational benefits too large to ignore. Opponents of the plan would not be able to counter Dee's findings for Tennessee by citing research on Tennessee that showed that he was wrong. As of now, at least, no scholar has analyzed Tennessee data and found errors in Dee's analysis.

I refer to this work not to make the case that Tennessee or any other state should resegregate its public schools. The point is only that there is no social science consensus on the educational benefits of racial and ethnic diversity in K-12 education, and that it is thus unwarranted to suspend the equal protection clause on the basis of the complex, confusing, contradictory, and ever-changing social science literature bearing on the issue.

One other important social science study that merits attention deals not with the K-12 years but with the undergraduate college experience, so its relevance to elementary and secondary education can be questioned. Nonetheless, its results should be sobering to

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<sup>11</sup> Thomas S. Dee, "Teachers, Race, and Student Achievement in A Randomized Experiment," 86 *Review of Economics and Statistics* (February 2004), 195-210, and "A Teacher Like Me: Does Race, Ethnicity, or Gender Matter?" 95 *American Economic Review* (May, 2005), 158-165.

those who believe that racial balance is so beneficial that coercive policies to bring it about are justifiable. The distinguished team of Seymour Martin Lipset, Stanley Rothman, and Neil Nevitte surveyed a representative sample of American college students and faculty members in 1999.<sup>12</sup> Excluding the historically black colleges and universities from the analysis because they had far too many black students to be considered "diverse," they found that the proportion of blacks in an institution's student body was *negatively* related to student satisfaction with their college experience overall, their estimate of the quality of the education they received, and their estimate of how hard their classmates worked. The correlations were not huge---.08, -.14, and -.09 respectively—but all were statistically significant.<sup>13</sup> Furthermore, the study found, faculty assessment of both student skills and of student work effort were also *negatively* related to the proportion of African Americans in the student body. It would be foolish to place too much weight on a single study, of course, but the superb academic credentials of the authors suggest that its findings cannot be ignored.

The literature on achievement yields a very mixed picture, but at least it focuses on a dependent variable that is reasonably clear—student test scores. The many other benefits some claim to see in diversity-enhancing policies are far more elusive to pin down. A number of investigators have made claims that experiencing diversity early in life—in school or in a neighborhood—has positive effects upon development in later life. Americans who are exposed to it while young, it is claimed, are more likely to seek out diverse settings in later life.

Although I have not made a systematic and comprehensive survey of the literature, I have not seen any reported study in this vein that was not severely flawed methodologically. For example, Professor Patricia Gurin of the University of Michigan, prepared an expert report that played a role in the *Grutter* and *Gratz* decisions. She testified that white students who attended schools with 25 percent or more minority enrollment were more likely to have diverse friendships after leaving college and to live in diverse neighborhoods and to work in diverse settings.<sup>14</sup>

Does this really demonstrate that students develop a taste for diversity, a love for having a certain level of racial mixing in their schools, and that this taste for diversity exerts a strong influence on their later decisions about where to live and who their friends are? It seems a highly dubious interpretative leap, given the availability of a much simpler explanation. Students who grow up in California, say, very often attend diverse schools because the racial composition of the entire state is so diverse. Those who grow up in Utah, North Dakota, and Vermont, by contrast, rarely attend racially diverse schools because of the racial mix in the population in their states. Since Americans show

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<sup>12</sup> Stanley Rothman, Seymour Martin Lipset, and Neil Nevitte, "Does Enrollment Diversity Improve University Education?" 15 *International Journal of Public Opinion Research* (2003), 8-26.

<sup>13</sup> Note that these findings conflict sharply with the optimistic picture painted by William G. Bowen and Derek Bok in *The Shape of the River; Long-term Consequences of Considering Race in College and University Admissions* (Princeton University Press, 1998). The many flaws in the Bowen and Bok discussion of this issue are detailed in Stephan Thernstrom and Abigail Thernstrom, "Reflections on *The Shape of the River*," 46 *UCLA Law Review* (June 1999), 1620-1626.

<sup>14</sup> "Expert Report of Patricia Gurin" in *Gratz v. Bollinger* and *Grutter v. Bollinger*, 24.

a strong tendency to settle down in life near where they grew up, California youth often end up in California after finishing school, and Vermonters tend to remain in Vermont or nearby Maine and New Hampshire, where they will predictably have few black friends or neighbors. Do Californians choose to settle down in California *because of* its highly mixed population? Do Vermonters really remain in their state of birth or nearby because it is so heavily white? How can it be proven that the racial mix in a state is important in attracting some migrants and repelling others? Since California and Vermont, or Utah and New York, differ in so many ways, it seems absurd to assume that migration decisions are driven by race or even influenced by it at all.

Similarly, growing up in a big city exposes one to greater diversity in school than would normally be found in a smaller city or town or a rural area. And the products of big city schools are likely more drawn to big city life as adults. But to posit a specific taste for racial diversity or the lack thereof as a driving force behind such decisions seems highly questionable.

For school officials in a city like Seattle to restrict student' choices of high school purely on the basis of their race or ethnicity in the hope of promoting a lifelong taste for diversity is unwarranted by anything social scientists have been able to establish as yet.

## V. Conclusion

In sum, the concept of diversity in K-12 schooling is impossibly vague and amorphous. A principal reason why the research as to its effects is so contradictory and inconclusive is that the concept cannot be pinned down with precision, and has been used so loosely that causal connections to outcomes cannot be convincingly established. Seattle's crude binary racial classification scheme used in student assignments completely neglects vital elements of diversity, and does not guarantee that the city's high schools are truly diverse in their racial and ethnic composition. The legal rationale for this racial balancing plan—that it is a "cure" for the city's residential segregation—rests upon the false premise that Seattle is a highly segregated city, and that its minority populations are disadvantaged by living where they live. If other cities seek to engineer what they consider a "better" racial balance in their schools by assigning students to school on the basis of their race, they need to carry out their job in a far more careful and responsible way. If Seattle's plan receives anything close to real "strict scrutiny," it will not pass.