

Chapter One

Residential Segregation

The Forgotten Civil Rights Issue

EVERY FEW YEARS, Americans are left with another civil rights milestone to consider. Recently, journalists, scholars, movement participants, and politicians have pondered the impact of the Fair Housing Act of 1968 (the year 2003 marked its thirty-fifth anniversary), 1954's *Brown v. Board of Education* Supreme Court decision (fiftieth anniversary) and the Civil Rights Act of 1964 (fortieth anniversary). Some of these analyses bask in self-congratulation that we have "come so far," while others approach something close to despair over how much remains to be accomplished and how many opportunities have been wasted or lost.

Analysts often treat the array of contentious political actions, court decisions, legislation, and bureaucratic implementation that constitute the "civil rights revolution" as a coherent whole—again, either as inspirational triumph or tragic failure. The reality is more complex. We have, in fact, come a considerable way. The nation's largest corporations and most prestigious universities consider racial diversity (admittedly, a vaguely defined concept) to be in their self-interest, a nearly complete reversal over the past forty years. The most egregious forms of discrimination and segregation have diminished considerably. Yet there has also been unmistakable stagnation in the nation's commitment to racial equality, and even substantial backsliding. For example, after rapid reductions in primary and secondary educational segregation in the late 1960s and the first half of the 1970s, segregation levels peaked in 1988 and have been declining since.¹

The most sobering legacy of dashed hopes in reducing racial segregation and discrimination is in housing. While Americans continue to believe that children are better off attending desegregated schools—at least if no sacrifices are required—residential segregation is largely a lost cause, or so it may appear. Some interpret the call for residential desegregation as implying that people of color need to be around whites to thrive. To others, residential desegregation simply lacks urgency. In this mistaken view, racial and ethnic clustering is a benign outcome of economic disparities and the preferences of people to "be with their own."

Lastly, the conventional wisdom about residential segregation is that the government can and should do little to tinker with the market forces that sort people into neighborhoods by class, race, and ethnicity. Residential

segregation *is* a difficult problem to address, but not because it is beyond the government's purview. To the contrary, one important reason that residential segregation is so severe and resistant to effective solutions is that federal, state, and local governments had (and continue to have) such a large hand in creating and maintaining it. The consequences of residential segregation are numerous and far-reaching, though often obscured. Among other effects, segregation exacerbates black/white wealth disparities by affording African American homeowners lower returns on their investment, and it limits employment opportunities. Racially separate and unequal schools are a direct result of segregated housing patterns.

In the late 1960s and the early 1970s, the federal government had the opportunity to begin to correct the injustices that prevented African Americans and other racial and ethnic minorities from obtaining housing wherever they could afford. The federal government—in particular, the United States Department of Housing and Urban Development (HUD)—took this responsibility seriously, and worked to fashion desegregation policies that rivaled the intensity of those that were being implemented in employment and education. Without question, administrative agencies attempting to battle segregation faced different sets of obstacles and opportunities in the three primary areas of civil rights: employment, education, and housing. Congress enacted legal protections against housing discrimination four years after the historic Civil Rights Act of 1964, which prohibited discrimination in employment and education. From 1964 to 1968, federal bureaucrats began to discover what approaches to desegregation were more or less effective, civil rights opponents in Congress began to devise ways to restrain the more activist impulses of government agencies, and numerous riots and expressions of black militancy reduced white support for civil rights initiatives.

It was no accident that fair housing legislation lagged behind antidiscrimination protections in other areas. (In light of Congress' penchant for writing vague legislative language, it is also no accident that the legislature never defined what it meant by "fair housing.") A substantial proportion of Americans have the strong sense that the federal government has no business intervening in the private housing market. The fact that the federal government historically has acted quite forcefully in the housing market—on the side of segregation—is lost on many people. Given this heavy governmental influence on housing patterns, spurring significant reductions in residential segregation was a demanding responsibility for the federal government, but not an impossible one.

This book chronicles federal governmental involvement in residential segregation, placing particular focus on the years of the Nixon

Administration, when HUD attempted to reverse this legacy of enforced residential segregation. In the end the agency was unable to foster meaningful changes in segregation patterns. Scholars of social policy study success disproportionately because it is easier to study, and successful policies are more prominent than failed ones. To comprehend fully how a law may fulfill its stated objectives, however, we need to understand the many reasons why this often does not occur.

RESIDENTIAL SEGREGATION REACHES THE NATIONAL AGENDA

George Romney, secretary of HUD, had a reputation for speaking in blunt terms. “Our nation’s metropolitan areas cannot endure . . . a run-down, festering black core, surrounded by a well-to-do, indifferent white ring,” he said on one occasion in 1970.² On another, he insisted that “the most explosive threat to our nation is the confrontation between the poor and the minority groups who are concentrated in the central cities, and the middle income and affluent who live in the surrounding and separate communities. This confrontation is divisive. It is explosive. It must be resolved.”³

Romney’s sense of urgency had faded by the time he left HUD in early 1973, disillusioned by widespread scandals in the agency’s housing production programs and his own inability to steer this massive, unwieldy bureaucracy. Nevertheless, he was correct in pointing to the destructive effects of racial and economic isolation, effects that continue to accrue today. At the dawn of the Nixon Administration, the time was ripe for federal action to foster residential desegregation. In fact, this opportunity to attack discrimination and segregation in housing was unprecedented. Though civil rights supporters typically had few positive things to say about President Richard Nixon, it was under Nixon that unmatched progress in Southern school desegregation took place and that affirmative action in employment took hold, beginning with the presidentially approved “Philadelphia Plan” to integrate the construction trades.⁴

At several junctures during this period, HUD appeared to be building the momentum to help forge elementary changes in segregated residential patterns by “opening up the suburbs” to groups historically excluded for racial or economic reasons. The door did not shut completely on this possibility until Nixon took the drastic step of freezing all federal housing funds in January 1973. *Knocking on the Door* assesses this “near-miss” in political history, exploring how HUD came surprisingly close to implementing unpopular antidiscrimination policies and why President Nixon derailed the agency’s civil rights drive. It is perhaps obvious now that

HUD was, in the end, unsuccessful. It may not be so obvious why these initiatives failed or how they might have succeeded.⁵ To be sure, one can identify some of the important elements in the failure of housing desegregation by highlighting commonly cited factors: substantial opposition from industry, considerable public resistance, inadequate mobilization of advocacy groups, and lukewarm support from Congress, to name a few. Yet, when we view housing desegregation in the context of other, relatively more successful civil rights policies such as affirmative action in employment and school desegregation (until it was abandoned), these factors alone fail to account for the varying trajectories of these policies. If one is to make sense of HUD's failure, it is crucial to understand how the structure of the agency made its component offices particularly apt to lose legitimacy, and how the array of missions within the agency resulted in various sectors of the agency working at cross-purposes from one another. These characteristics in particular made HUD acutely vulnerable to political attack, and President Nixon seized upon this vulnerability.

At first blush, the era of Richard Nixon's presidency (1969–74) may seem an unlikely period to identify as one in which effective federal attacks on residential segregation were most likely. Nixon is often remembered as an individual whose domestic political stances were calculated to gain the support of whites, especially Southern whites, who had grown resentful of the outbreaks of black rage in inner cities and of the expanding scope of federal civil rights enforcement. Internal disputes over philosophies and protest strategies severely weakened the civil rights movement, and public support for governmental attempts to fight discrimination appeared to be eroding. There is, however, a flip side to this picture. While Congress passed most of the prominent twentieth century civil rights legislation during the Johnson Administration, in the Civil Rights Acts of 1964 and 1968 and the Voting Rights Act of 1965, the specific policies that would carry out the aims of these laws took form during the Nixon Administration. During this time, federal agencies escalated their efforts to carry out federal civil rights laws, and courts largely deferred to the wisdom of the agencies.⁶

Led by the liberal George Romney, HUD was charged with enforcing the newly passed fair housing law "affirmatively." Moreover, a serious housing shortage had led Congress to make an enormous federal commitment to subsidizing housing production in the 1968 Housing and Urban Development Act. Historically, the federal government has had an easier time securing regulatory compliance from private sector and from other governmental actors when the incentive of federal funding, or the threat of withholding these funds, is present. Thus, the 1968 housing production legislation provided HUD with substantial leverage to carry out the antidiscrimination law.

HUD was on its way to spearheading a sustained attack on racial and economic exclusion. Ultimately, these efforts came unhinged. The Nixon Administration merits close examination as a pivotal period in explaining the divergence of federal civil rights policies in housing from those in other areas, such as employment and education, where the United States adopted stronger (though by no means flawless) race-conscious policies in trying to reduce inequality between African Americans and whites. This was the best opportunity that America had to devise political solutions to the problem of residential segregation. It also may have been the last one, at least for the foreseeable future. In accord with the dominant political focus of the time, I pay closest attention to issues of black/white inequality and segregation (and primarily use the terms “black” and “white” to reflect the common nomenclature of that era). While antidiscrimination initiatives later incorporated other racial and ethnic groups (Latinos, Asians, Native Americans) as well as other affected classes (women, the disabled), initial policies directed at African Americans served as a template for subsequent expansions; thus, said policies are important to decipher as the foundation upon which more broadly inclusive approaches were built.⁷ This focus on the trajectory of residential desegregation policies during the Nixon Administration is supplemented by an assessment of the evolution of federal housing policies throughout the twentieth century, with particular attention to the ways in which these policies addressed or failed to address questions of racial discrimination. (Readers interested mainly in the historical narrative may wish to skip the theoretical discussion that follows, and proceed to page 16, “Hurdles to Housing Desegregation Initiatives.”)

GOVERNMENT AGENCIES AS KEY POLITICAL PLAYERS

While studies that explore the processes and effects of segregation are numerous, relatively little scholarship seeks to understand the development of federal *policies* to address residential segregation. This study utilizes a comparative-historical framework to maximize analytical leverage in explaining the evolution of these policies. Employees of federal agencies are key players in the formation of social policies, despite the fact that the legislative and judicial branches are more visible political actors in the policy-making process. Legislative language is often vague, leaving a wide range of interpretation to the discretion of administrative agencies.⁸ When courts have acted prior to legislative passage and agency action, little change has ensued. To wit, school desegregation after the landmark *Brown v. Board of Education* (1954) decision moved excruciatingly slowly until congressional passage of the 1964 Civil Rights Act. In the

late 1960s and early 1970s, courts often responded to the actions of civil rights agencies, in most cases deferring to the expertise of the agencies in civil rights enforcement (see, for example, the Supreme Court's 1971 *Griggs v. Duke Power* decision). Moreover, ignoring the role of government agencies in policy formation "leaves the most important political outcomes—the impact of policies on citizens—unstudied."⁹

Skocpol argues that state bureaucracies are potentially capable of autonomous action, meaning that they may devise strategies of action independently of other branches of government, capitalists and organized business groups, political parties, interest groups, movement organizations, and public opinion. Some scholars have stressed the importance of organizational and intellectual capabilities in policy-making agencies seeking to establish autonomy.¹⁰ Carpenter's study of executive agencies from 1862 to 1928 finds that the ability of government bureaucracies to achieve autonomy is predicated upon political insulation from actors who try to control them, the development of unique organizational capacities, and strong organizational reputations (political legitimacy).

To act autonomously, he argues, agencies must establish political legitimacy, "a reputation for expertise, efficiency, or moral protection and a uniquely diverse complex of ties to organized interests and the media."¹¹ Considering the cases of the Post Office, Agriculture Department, and Interior Department, Carpenter's account of American state-building is persuasive; however, his findings do not map neatly onto the civil rights agencies created in the 1960s. While agencies in the late nineteenth and early twentieth centuries typically employed strategies of incremental program expansion, Congress expected the civil rights agencies to act quickly to carry out their mandates. The mission of fighting racial discrimination had immediate legitimacy, though the agencies did need to develop legitimacy for the strategies that they employed to bring these mandates to life. Rather than being earned over the course of years, bureaucratic autonomy was in some sense built into the civil rights agencies, since Congress offered little specific guidance to the agencies in civil rights legislation. (This autonomy could be stripped away if civil rights agencies subsequently developed bad reputations.)

Whereas much previous work in this area focuses on the case of government agencies that attempt to secure passage of their legislative proposals, I investigate why certain agencies are able to initiate policy innovations based on existing law—even if these innovations are opposed by other political actors—while other, similarly situated agencies find themselves unable to do so.¹² One can better understand HUD's failure in civil rights by directing attention to its disadvantaged institutional home for these activities. The term "institutional home" refers to the government

agency, agencies, or agency division(s) through which relevant policies are interpreted, articulated, and carried out. According to this approach, the structure and mission of an agency have important direct effects on policy outcomes. In addition, the institutional home of a policy has a marked influence on how prior policies and external factors that may influence policy development—such as interest and advocacy groups, other branches of government, and the media—play out in specific cases.

ACTIVISM IN GOVERNMENT AGENCIES

Employees of government agencies, especially newly hatched ones, often have sizable aspirations for effecting change. Appointees with political ambitions typically want to develop reputations as instigators of action, not as overseers of slow-moving, unresponsive bureaucracies. What varies is the degree to which agencies successfully pursue and attain (or partially attain) their activist goals. One possibility is that Congress or the president exerts tight controls over administrative agencies, essentially dictating how boldly an agency may act. Congress may respond to public opposition directly by passing legislation to prohibit specific agency actions or policies, or indirectly by threatening budget cuts, refusing to confirm political appointees, or making administrators squirm while testifying on Capitol Hill.¹³ It can be surprisingly difficult for Congress to limit unpopular agency actions, especially in cases where agency tasks are “hard to specify and difficult to evaluate” and “imbedded in conflict-ridden political environments.”¹⁴ While Congress can (and does) deny agency requests for new funding or authority, the legislative branch frequently has found it difficult to scale back agency efforts, especially when courts have supported these actions.

The White House has had similar problems. Wilson notes that “the White House repeatedly tries to tidy up these relationships and bring the regulatory agencies under close supervision, but the history of these attempts is one of dashed hopes and wasted energies.”¹⁵ Oftentimes, the president is unaware what individual agencies are doing, so long as the agencies do nothing newsworthy enough to demand his attention or intervention. Other factors contributing to this lack of presidential control include agency ties with interest groups and congressional committees, informational advantages of bureaucracies, and political appointees becoming ideological compatriots of agency employees rather than the White House.¹⁶

In more recent years, scholars have refined their conceptions of bureaucratic autonomy in light of increasing presidential success—especially by

Ronald Reagan—in controlling the bureaucracy. The centerpiece of this “administrative presidency” lies in appointments, where ideological compatibility with the president supercedes other factors, such as ties to interest groups, agency clients, or constituencies within the president’s party.¹⁷ Reagan took many of his cues from Richard Nixon, who began his second term determined to have federal agencies carry out his policy preferences more closely.

With respect to the judiciary, courts consistently backed forceful agency efforts in civil rights during the Johnson and Nixon administrations. While Rosenberg may be correct in arguing that court rulings *alone* may have only minor effects on social policies, he underestimates the extent to which judicial decisions may legitimate or undercut the actions of other governmental branches.¹⁸ Nevertheless, an agency’s ability to achieve its goals is not reducible to the preferences of other branches. Even skeptics of agency independence such as McCubbins and Weingast maintain that bureaucracies do sometimes exercise autonomy from the preferences of other branches, but only when there are missteps at the appointment stage.¹⁹ Moreover, an agency’s ability to convey legitimacy can strongly condition the responses of other branches.

Much early work on administrative agencies asserted that they may be “captured” by business or other powerful interest groups. According to some of these arguments, progressive social policies such as the Social Security Act are the result of the more liberal sector of the business class winning out over the more conservative one.²⁰ These works theorize policy adoption, though another strand of work makes a parallel argument about elites steering agency actions.²¹ Business interests generally have not captured civil rights agencies, whose staffers are likely to sympathize with civil rights groups. Business elites may try to hamstring civil rights efforts by appealing to the larger agency (if civil rights responsibilities lie within a larger agency), Congress, or the White House, but they are unlikely to have success asking civil rights staffers to “ease up” and make the agency’s efforts appear ineffectual.

In housing, the National Association of Real Estate Boards (NAREB) was the most influential business interest with a hostility toward civil rights enforcement. NAREB, however, had a tough case to make before HUD’s housing production and civil rights staffers. Production staffers had no reason to support NAREB’s contention that housing policies should de-emphasize new production, and civil rights staffers sharply disagreed with the association’s *laissez-faire* stance toward antidiscrimination enforcement. On the other side of the equation, the National Association of Home Builders viewed HUD’s attempt to increase subsidized housing production in suburbia as being in their self-interest, since

this initiative would allow the association's members to build more housing.

Others claim that advocacy groups steer the actions of government agencies. Detlefsen and Belz argue this point in their explanation of the emergence of affirmative action in employment, though Skrentny and Graham offer strong proof to the contrary in showing that advocacy groups did not initiate the call for affirmative action and were initially wary of this approach.²² After a social movement organization has succeeded in getting legislation passed, its means of influence may shift from pressure on elected officials to the installation in government bureaucracies of "institutional activists," social movement participants who hold positions within government and seek to attain social movement goals through normal bureaucratic channels.²³

Even scholars who criticize sociologists for not taking public opinion seriously tend not to identify public attitudes as a direct cause of agency actions. One must nevertheless consider the simple explanation that public support for equal opportunity was greater in the areas of employment and education than in housing, and thus resulted in a stronger policy.²⁴ While public opinion is influential in much political decision-making, opinion and policy are, however, often coupled loosely.²⁵ Several policies may accord with public opinion, and citizens may often not know or care which specific policy options they prefer to carry out their broad preferences. Even when citizens do have clear preferences in a given policy area, in many cases this position is not strong enough to alter their support for a particular politician or party.

Comparing public opinion data among issue areas can be difficult, as methods and phrasing of questions often vary widely. Some surveys have shown that public support for intervention by the federal government in securing equal treatment for blacks in employment has been only slightly greater than that for open housing, though most observers assume that white opposition to affirmative action in housing has clearly outweighed opposition to employment-related affirmative action. White attitudes toward residential integration have shifted, at least in the abstract. The National Opinion Research Center has periodically asked respondents to agree or disagree, slightly or strongly, with the following statement: "White people have a right to keep (Negroes/blacks/African Americans) out of their neighborhoods if they want to, and (Negroes/blacks/African Americans) should respect that right." In the 1963 survey, 60 percent of white respondents agreed with the statement; that number declined to 56 percent in the 1968 survey and 41 percent in the 1972 survey, before rising back to 44 percent in 1977. Since then, white agreement with this statement has declined from 25 percent in 1988, to 20 percent in 1991 and 13 percent in 1996.²⁶

In any case, using public opinion alone to explain the differing strengths of civil rights policies is problematic. Public opinion surveys reveal similar levels of support for school busing and housing desegregation, and vocal public opposition to school busing far outweighed opposition to housing desegregation. In employment, federal agencies implemented affirmative action without the support of Congress or the public—indeed largely without public knowledge. Thus, if public opinion does have an effect on agency actions, this effect is indirect, manifested in the responses of the media and other political actors to the initiatives in question, and reflected in the legitimacy that accrues to the agency.

A more direct cause of agency actions may be the views of the individuals who head them. Glazer contends that civil rights agencies tend to be staffed by advocates of the most ambitious measures to combat discrimination. In his view, staffers easily capture agency heads, who get more political mileage from heading an aggressive agency than being seen as “someone who presided over the reduction or dismantling of an unnecessarily bloated office.”²⁷ The explanation for divergence in civil rights policies would hold that heads of the employment and education bureaucracies held more activist views than the HUD secretary. In light of HUD Secretary George Romney’s repeated assertions that residential segregation was the greatest threat to the nation, this explanation is unconvincing. His career incentives to pursue civil rights issues single-mindedly, however, were not unambiguously clear. Though he spoke passionately in favor of desegregation, Romney’s position as HUD chief compelled him to balance this objective with another goal he considered urgent: spurring housing production in light of the dire housing shortages faced at the time by the United States. This point notwithstanding, one cannot explain the differing outcomes of federal desegregation initiatives by examining the career considerations of the people who headed the agencies in question; a more systemic, institutional-level understanding of government bureaucracies is necessary.

STATE AUTONOMY AND INSTITUTIONAL CAPABILITY

The notion that state actors may pursue their own ideas or interests (in building their careers, for instance) through policy innovations is a key insight of historical institutionalism. State autonomy cannot be presumed, as it varies over time and across agencies.²⁸ Much historical institutional work that focuses on the constraints faced by political actors looks at state capacity. In short, these studies note, policy entrepreneurs will push policies that their agency is capable of carrying out given limits

in staffing, information, resources, and so on.²⁹ While there is little agreement on how scholars should operationalize state capacity, agencies with more staffing, information, and resources might reasonably be expected to push more activist policies. HUD's civil rights office may have had a comparative advantage in terms of state capacity, as it could draw on the information, resources, and possibly the staffing of other sectors of the agency (and existing civil rights offices); the Equal Employment Opportunity Commission (EEOC), as a stand-alone agency, logically would not have had the same ease of access to information and resources. Ironically, in the case of the EEOC, limited state capacity led to innovation and aggressiveness, as staffers devised creative ways to fulfill the agency's mandate despite little enforcement authority and funding.³⁰

Prior policies can influence state capacities.³¹ These policy legacies (also known as policy feedbacks) may constrain some conceivable policy options and favor others. Policy-making is unavoidably historical, as all political actors react to previous governmental efforts that address the same sorts of problems. As Hecló argues, political actors engage in political learning, trying to apply the lessons of past policy successes and failures to current problems. The lessons of past policies are subject to varying interpretations and are often hotly contested.³² This contention occurs in part because the prior policies that will impact current policy development are not always obvious: policymakers may draw upon a number of policy legacies, including a policy's immediate predecessor, policy in an analogous area, and the approach of another political jurisdiction. Moreover, the lessons of a particular policy may be interpreted in a number of different ways. For example, reformers portrayed Civil War veterans' benefits, once a broadly popular program, as emblematic of wasteful government spending and tools of political patronage; thus, they became "an obstacle rather than an entering wedge" for subsequent spending programs.³³

Weir points helpfully to the creation of institutions as central to the restriction of policy possibilities. First, the existence of institutions channels action by directing research and political mobilization along some lines rather than others. Second, existing institutions affect the creation and operation of new institutions. The creation of new institutions, which appeals to those advocating rapid change, may be blocked by existing institutions with overlapping responsibilities. Even if the new institutions are created, existing institutions influence their character in important ways. Lastly, the failure to create policies and institutions may spur groups to make private arrangements that make subsequent public interventions harder to effect.³⁴

The history of civil rights enforcement supports Weir's contentions about the importance of institutions in shaping policy possibilities.

Weir's insights can be developed further, however, by delving more deeply into how the institutional home of a policy conditions the responses of other political actors to agency attempts at articulating, developing, and carrying out their chosen policy prescriptions. HUD's civil rights office was clearly constrained by the institutional context under which it was created. Specifically, this office was part of a large, unwieldy bureaucracy with an unsavory policy legacy of tolerating and even encouraging racial segregation, and with other mandates (most notably, housing production) that could conflict with its antidiscrimination mission. Yet, one can best understand the failure of HUD's suburban integration efforts not as a story of institutions as such, but of how political actors opposed to fair housing efforts seized upon political vulnerabilities, which were fostered by the weak institutional basis for housing antidiscrimination policies. Institutions themselves are not actors; instead, institutions shape the political context—which political actors then respond to—in significant ways.

The interpretation of agency actions by other political actors can affect agency capabilities. Organizations face a "legitimacy imperative," which stresses the importance of symbolic actions that convey legitimacy to audiences capable of imposing sanctions if taken-for-granted "rules of the game" are violated.³⁵ Legitimation involves "explaining or justifying the social order in such a way as to make institutional arrangements subjectively plausible."³⁶ Because bureaucratic organizations such as government agencies are seen as following their own internal logic, often with significant arbitrariness, these sorts of organizations are keenly vulnerable to criticisms of their work arrangements and procedures, and thus have a particular need for legitimation. If agencies fail to achieve legitimacy, they will be incapable of autonomous action.³⁷ Meyer and Scott maintain that the legitimacy of a particular organization "is negatively affected by the number of different authorities sovereign over it and by the diversity or inconsistency of their accounts as how it is to function."³⁸ This point would suggest that agencies with multiple missions face an especially difficult task of legitimation.

THE IMPORTANCE OF INSTITUTIONAL HOMES

The approaches discussed thus far offer a number of perspectives that aid understanding of the empirical puzzle presented here. Weir's emphasis on the importance of institutions in shaping policy is a good starting point. Other factors such as interest groups, social movements, and policy legacies are also indispensable parts of the story. However, one must consider these factors in the context of a policy's institutional home,

which mediates the impact of other factors that may be important in determining policy outcomes. In addition, the key elements of an institutional home—structure and mission—have direct effects on policy outcomes. An advantaged institutional home will increase the odds of policy success—as measured by the degree to which agency goals as understood by employees are fulfilled—while a disadvantaged home will decrease these odds. An advantaged institutional home is one where agency employees consider the mission in question to be primary, other agency missions do not conflict with the mission in question, the agency’s legitimacy will be judged by the achievement of that mission, and achievement of the agency’s primary mission is relatively easy to convey to a broader audience. In a strong institutional home, the agency does not house numerous other programs, particularly ones with a tendency toward mismanagement or an unfavorable policy legacy.³⁹

In contrast, a disadvantaged home is one where the mission in question is secondary and may conflict with other missions, legitimacy may be gauged by the achievement of other agency goals, and fulfillment of the mission is difficult to communicate. A weak institutional home may encompass other programs with a tendency toward mismanagement or a policy legacy that contradicts the mission in question. Multiple missions are likely to spawn competing agency cultures, which may result in inefficiency and ineffectiveness. “Organizations in which two or more cultures struggle for supremacy will,” Wilson says, “experience serious conflict as defenders of one seek to dominate representatives of the others.”⁴⁰

Consider the case of an agency whose primary mission is to stimulate private enterprise but has other missions as well. One of these secondary missions is to enforce antidiscrimination laws. To take the example of housing production, a government agency might provide subsidies to a developer who plans to build 5,000 new units of needed housing in a metropolitan area. Bureaucrats responsible for housing production are thrilled. Bureaucrats in the civil rights office want to ensure that the housing units are located so as to promote racial integration and marketed to a wide cross-section of potential buyers so that the units are racially and economically integrated. The housing production staff has little interest in losing the good will of the builders or endangering the project itself by placing additional constraints on the developers.

The interest group for the builders will likely lobby the housing production staff, while civil rights advocacy groups will lobby the civil rights staff. This scenario goes against the implicit assumption in most explanations that opposing groups are vying for the attention of the same agency staffers. Bureaucrats in a disadvantaged institutional home

not only have to justify their policy approaches to outside audiences, such as other branches of government and the media, but to agency employees not directly involved in that mission. Other agency employees may view the aggressive approach as directly threatening their own career objectives and may seek to undermine bold action. So, while an advocacy group may capture a civil rights staff, this capture may be only marginally effective if the staff has little power within the agency. By the same token, the presence of many institutional activists may have little effect if they are part of a civil rights office within a larger agency.

Agency mission and structure mediate other factors as well. A disadvantaged institutional home will tend to encourage policy feedback that constrains rather than enables aggressive action. In the enforcement of antidiscrimination laws, political actors may plausibly model their approach on previous policies in the particular policy area (e.g., housing, employment, education), or existing civil rights policies in other policy areas (or by other political jurisdictions). After passage of the Civil Rights Act of 1968, which extended antidiscrimination protections to the area of housing, HUD had two plausible paths to follow. On the one hand, the agency could carry out fair housing laws in a muted way (using a colorblind, case-by-case approach), reflecting the federal government's legacy of tolerating and even encouraging residential racial segregation. One might expect this direction if long-time employees of the agency remained there after passage of fair housing laws. On the other hand, the agency could implement fair housing laws in an aggressive, race-conscious manner, as government agencies in employment and education were doing, with judicial support. If civil rights policies were housed in a disadvantaged institutional home, we would expect to see the former scenario play out, as civil rights staffers might lack the power within the agency to enact the aggressive measures that they favored. In the case of an advantaged institutional home, the latter would be more likely.

An advantaged institutional home also decreases the chances of presidential sanctions. This has to do with presidential concerns about legitimacy. When attempting retrenchment in civil rights policies, a president runs a greater risk to his own legitimacy if he takes on an agency with the sole mission of enforcing civil rights laws.⁴¹ Of course, a president may want a highly publicized dispute with agency heads to dramatize his position. In most cases—and certainly with Nixon—the president interested in civil rights retrenchment will attempt to portray himself as committed to civil rights goals, while opposing bureaucratic overreaching.

A similar risk applies for delegitimation more generally, as larger agencies with multiple missions have greater chances of scandals or

mismanagement in one section of the agency tainting the agency's reputation as a whole.⁴² Policy feedback approaches do not capture this diffusion of delegitimation, which may pose a danger equal to or greater than the constraining effects of prior policies. As noted earlier, policy legacies may be an important determinant of whether an institutional home is relatively strong or weak. The institutional home, however, mediates *which* policy legacies are drawn upon and *how* these prior policies affect new policies. The presence of multiple missions—even absent policy legacies that are, for instance, hostile to civil rights goals—may present serious obstacles to the fulfillment of one or more agency objectives and offer additional opportunities for agency opponents to attack these initiatives.

The institutional context is not an explanation in itself, but provides a framework for unraveling how and why agencies act in particular ways, and how various governmental and private interests in the political process respond to these actions. Stated another way, institutional homes are not merely the starting point that affects which path a policy takes. They are enduring parts of the political landscape; paying attention to them allows us a more complete understanding of the reactions, strategies, and decisions of political actors as policy is continually shaped and reshaped.

POLITICAL STRATEGIES OF BLAME AVOIDANCE

Scholars of social policy often assume that policymakers, whenever possible, will act and vote in an attempt to claim credit with constituents and clientele groups that benefit from these actions.⁴³ Thus, in the case examined here, one would expect the Nixon White House to battle civil rights agencies aggressively and explicitly, making clear that the relaxation of enforcement efforts is a gift to its political supporters. A competing expectation follows from Weaver's assertion that "when push comes to shove, most officeholders seek above all not to maximize the credit they receive but to minimize blame."⁴⁴ This objective entails a more subtle strategy, in which the White House balances its attempts to receive credit from its conservative supporters with occasional efforts to placate civil rights supporters and, more importantly, convey to observers that it is constrained by factors beyond its control: courts, the Congress, and so on. Consequently, the White House can pin less-than-optimal policy outcomes on other political actors. This blame avoidance strategy seems particularly useful for complex, contentious issues where ideal outcomes are hard to specify and even harder to realize. Such an approach would also accord with studies revealing that constituencies

respond more strongly to losses than they do to gains.⁴⁵ In the two-party system of the United States, taking ambiguous positions, especially on divisive issues, may often represent the best strategy for electoral candidates.

For officeholders, however, the strategy of blame avoidance does not always entail “ambiguity and inaction.”⁴⁶ This point rings especially loudly when one considers presidential decision-making regarding government agencies. In many cases, the president cannot escape blame for the actions of executive agencies merely by claiming unawareness of agency actions or inability to stop them. When advisers or agencies attract criticism, they may serve as “lightning rods” that deflect blame from the president himself. Alternatively, they may become a political liability to the president, as occurred with Ronald Reagan’s interior secretary, James Watt.⁴⁷

Administrative agencies may have goals that conflict with White House objectives. The president may attempt to rid an agency of troublesome employees by firing them or forcing their resignations. As discussed in the previous section, the White House has struggled to get agencies to act as the executive wishes. Given the difficulty with which agency actions can be brought into line with White House desires, the president will choose which battles to fight based on his perceived odds of winning, as it is a clear political disaster to try publicly and unsuccessfully to redirect an agency’s activities.⁴⁸ To understand the political calculus involved in deciding which agency (or agencies) to take on, it is necessary to examine the characteristics of the agencies themselves.

Examining comparable agencies affords substantial analytical leverage. By doing so, one can identify the qualities that make agencies more likely to achieve the goals they set. This perspective also permits a grounded evaluation of success. If one were to examine any civil rights agency in isolation, measuring success by whether it has eliminated inequality, then each agency would rank as a failure. This criterion, however, is not realistic, nor is it particularly helpful. By investigating comparable agencies, one can evaluate *relative* success in relation to what other agencies have accomplished.

HURDLES TO HOUSING DESEGREGATION INITIATIVES

Despite facing their own, formidable obstacles, the employment and education bureaucracies both managed to interpret their limited congressional mandates creatively to justify taking bold, race-conscious action in their respective areas. Title VI of the 1964 Civil Rights Act prohibits

entities receiving federal funds from engaging in racial discrimination. The 1964 legislation exempted federal mortgage insurance, including the Federal Housing Administration (FHA) and Veterans Administration (VA) loan programs, from coverage. Title VII of the 1964 legislation, which addresses employment discrimination, specifically prohibits the use of “preferential treatment” to correct racial imbalance. The Civil Rights Act of 1968 states that “it is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States,” and directs the secretary of Housing and Urban Development to act “affirmatively” to enforce the provisions of the law. In antidiscrimination laws, terms such as “discrimination,” “fair housing,” and “affirmative action” are not defined, and thus are subject to varying interpretations.

One way in which housing antidiscrimination laws differ from those in employment and education is in their later passage, lagging four years behind protections in the other two areas. Antidiscrimination initiatives in employment and education did not develop much in the four years that transpired between passage of the two civil rights laws. Yet the head start of the employment and education bureaucracies probably did mean that, by 1968, they had some experience in identifying which desegregation strategies might work best; HUD did not. Federal agencies intensified desegregation policies in employment and education during the Nixon Administration, after the fair housing law was passed. Within the broad political context, civil rights efforts in all three areas were up against public resistance and an administration that was ambivalent, at best, about extensions of existing policies.

In more specific terms, however, each area featured distinct political dynamics. Housing is typically viewed as an area ruled by local prerogatives. This is not an entirely accurate view. First, as subsequent chapters will detail, the federal government was intimately involved in the perpetuation and maintenance of residential segregation. Most pivotally in the massive suburban migration following World War II, the FHA and the VA reinforced all-white neighborhoods by refusing to insure mortgages in multiracial neighborhoods, and in many all-black neighborhoods as well. In doing so, the federal government affirmed the beliefs of prospective white homeowners and private interests that investment in racially exclusive neighborhoods was the only sensible financial decision one could make. During the years after World War II, and again during the Nixon Administration, the great public demand for housing afforded the federal government substantial leverage in ensuring the equitable treatment of all its citizens. This leverage remained largely untapped. Left to their own devices, localities believed that their self-interest rested in ex-

cluding nonwhites, and—whenever possible—families of low and moderate income, regardless of race. The belief in local sovereignty existed in education as it did in land use, reflected in the pervasive unwillingness of Southern communities to desegregate their schools in the absence of severe federal arm-twisting.

Much of the struggle to foster suburban desegregation has butted up against the practice of exclusionary zoning by municipalities. In legal theory, states are invested with complete power over local governments; however, states have typically granted local governments “home rule” authority for decisions affecting the locality. Many localities have passed ordinances requiring minimum sizes for homes or lots, and banning multi-family housing, mobile homes, and subsidized housing.⁴⁹ Towns designed these ordinances consciously to maintain economic segregation to the greatest extent possible.

Debates over interpretation of the Fair Housing Act have focused largely on the question of whether showing that a policy or practice has a disproportionate racial impact (regardless of intent) is enough to prove a violation of the right to fair housing. In employment, the Supreme Court established the disparate impact standard in the pivotal *Griggs v. Duke Power Co.* (1971) (401 U.S. 424) decision, then progressively narrowed it, culminating in *Wards Cove Packing Co. v. Atonio* (1989) (490 U.S. 642). Congress passed the Civil Rights Act of 1991 to codify the disparate impact standard under Title VII of the Civil Rights Act of 1964, which protects against discrimination in employment. The legal situation is considerably cloudier in housing. The Supreme Court has never ruled on whether a case can be brought under the Fair Housing Act based exclusively on disparate impact theory. Appeals courts have been divided, making for “an increasingly incoherent body of case law.”⁵⁰ The 1988 amendments to the Fair Housing Act did little to clarify this confusion, as political actors differed widely on whether a disproportionate impact standard held sway in housing.

Housing is also an industry with many moving parts, including builders, lending institutions, and real-estate brokers, as well as governmental entities concerned with housing. The most results-oriented approach to combating racial inequality has proven to be addressing broad patterns, rather than strictly investigating individual cases of discrimination. This approach, typically labeled “affirmative action,” has been used extensively in both employment and education. Lending institutions and big building firms are clearly large enough to monitor broad racial patterns. Given average income, racial makeup of the metropolitan area, and other demographic data, one can identify towns whose populations deviate from reasonable expectations of racial diversity. It is then relatively simple to identify those towns that *may be* practicing or

condoning racially discriminatory behavior. Mustering the political will to investigate possible offenders, and compelling these towns to take some form of affirmative action, has been considerably more difficult.

DEFINING AFFIRMATIVE ACTION POLICIES

Affirmative action itself is a notoriously muddy concept. The term is used most often to mean “race-conscious,” as opposed to “color-blind,” efforts by employers or educational institutions to increase the proportion of underrepresented groups within their ranks. The idea of affirmative action is rooted in an English legal concept of equity dating back several centuries, in which the administration of justice is guided by what is considered fair in a particular situation rather than by a rigid set of legal rules. The phrase “affirmative action” first appeared in the 1935 National Labor Relations Act. Under this law, affirmative action meant that employers found to be discriminating against union members would not only be required to stop the discrimination but also “to take such affirmative action including reinstatement of employees with or without back pay.”⁵¹

When first used in the civil rights context, the concept of affirmative action was tied to a color-blind approach. Executive orders by Presidents Kennedy and Johnson required firms contracting with the federal government to “take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color or national origin.” The Civil Rights Acts of 1964 and 1968 both require the relevant agencies to act affirmatively to promote the antidiscrimination objectives of the legislation.

Skrentny identifies five primary tenets of race-conscious affirmative action in employment that distinguish it from the traditional color-blind model: (1) a requirement that employers in hiring and promotion decisions view race as real rather than unreal or irrelevant; (2) “an emphasis on counting anonymous minorities in the workforce,” as opposed to treating each employee as an individual; (3) a de-emphasis on discriminatory or racist intent and on identifying individual victims of discrimination; (4) a de-emphasis or reevaluation of traditional standards of merit; and (5) an overarching concern with representation or utilization of minorities rather than stopping individual acts of discrimination.⁵² This set of ideas appears to hold sway in university admissions policies as well—particularly the emphasis on counting anonymous minorities and the de-emphasis on individual victims of discrimination and on traditional standards of merit (e.g., SAT scores). One might also view busing for the purposes of school desegregation as a form of affirmative

action, in that it focuses on racial representation in schools rather than individual acts of discrimination.

Few along the political spectrum would suggest that affirmative action is the ideal means to attack discrimination. Conservatives typically argue that such policies constitute reverse discrimination and violate the ideal of a meritocracy. Even defenders of affirmative action are likely to acknowledge that attempting to treat the root causes of discrimination and inequality would, in the long run, be more effective than affirmative action approaches, which attempt to alter the consequences of disadvantage. Nevertheless, this approach has yielded more demonstrable results than case-by-case, color-blind strategies.

While affirmative action in employment has been the subject of considerable scholarly attention in recent years, very little work has examined housing as a civil rights policy on the national level.⁵³ Affirmative action approaches in housing can take a number of forms. To one extent or another, HUD tried several approaches to encourage residential desegregation. These included the following: (1) site selection of public or subsidized housing in predominantly white or racially mixed neighborhoods; (2) requiring housing builders receiving government funds to foster integration in their advertising strategies and tenant selection; (3) requiring real-estate brokers to inform clients of all residential options, rather than showing families homes in different neighborhoods according to their race (as was customary); and (4) withholding government funds from localities or other entities whose actions (or inaction) promoted segregation. These strategies, if pursued more aggressively and effectively, likely would have engendered greater change in residential patterns. Subsidies for “pro-integrative” housing moves, a requirement that localities or metropolitan agencies develop and implement plans to foster neighborhood integration, and race-conscious tenant assignments in public housing represent other policy possibilities.

This book focuses on federally subsidized housing and private housing, rather than project-based, “bricks and mortar” public housing. For many years, local housing authorities—without objection by the federal government—segregated residents of public housing by race.⁵⁴ By the time these practices came under close scrutiny, many cities found few non-elderly whites willing to live in public housing with significant numbers of racial minorities; as a result, integration within buildings became virtually impossible.⁵⁵ During the Nixon Administration, policy deliberations about “opening the suburbs” seldom considered the possibility of integration via the placement of public housing, often with a primarily nonwhite tenant population, in white neighborhoods. Many political actors believed that suburban towns were considerably more resistant to traditional public housing than to subsidized housing. In a number of

cases, however, suburban residents seemed to consider all housing associated with the federal government to be “public housing.” Of the options that were on the table, formation of regional boards to plan for and manage economic and racial desegregation represented the best possibility for notable progress (see chapter 5).

CIVIL RIGHTS POLICIES DURING THE NIXON ERA

An understanding of HUD’s failure to implement effective desegregation policies must account for the political context that the agency faced under the Nixon Administration. Scholars in recent years have offered a number of different takes on Nixon’s civil rights policies generally, and specifically on Nixon’s support for affirmative action in employment. O’Reilly’s analysis of the racial politics of American presidents labels Nixon a “demographer,” concerned only with placing himself in the most advantageous political position possible in a given situation. Graham paints a similar portrait, arguing that Nixon designed his civil rights policies to maximize political dividends.⁵⁶ The fact that he occupied the White House at a pivotal time for civil rights policy, coupled with his often-unpredictable positions on specific issues, makes Nixon’s tenure as president a particularly revealing period to examine.

Critics often emphasize that President Nixon was guided by a “Southern strategy” that sought to secure the support of whites, especially from the South, who might be receptive to the more blatant racial appeals of George Wallace.⁵⁷ True enough, Wallace was a concern to Nixon. But Nixon had other political concerns as well. “Turning back the clock” completely on civil rights was not a viable strategy. First, many politicians across the political spectrum feared that pulling back too far on civil rights enforcement would reignite the black anger and violence that had swept through numerous urban areas in the preceding years. In O’Reilly’s take, “[T]he President wanted manageable division and bitterness between the races, not the chaos that would have followed unqualified success” in turning back civil rights movement goals in areas such as school desegregation and voting rights.⁵⁸

Even if violence did not occur, Nixon knew that any sign of civil rights retreat would be met harshly by advocacy groups and covered widely by the media. While the civil rights movement during the Nixon era was in many respects sharply divided, several established organizations—such as the NAACP, the Urban League, and the Leadership Conference on Civil Rights—were still able to gain the attention of Washington and the news media, if not always the younger generation of African Americans.⁵⁹ Civil rights agencies were staffed by institutional activists who

were ready to fight any attempts to dismantle government efforts. While Nixon was to become more and more impatient with the career bureaucrats who would not bend to his wishes, he also created problems for himself by appointing independent progressives to head domestic policy departments.⁶⁰

Lastly, at least in the case of busing, it is not entirely clear that Nixon alone could have halted court-ordered desegregation.⁶¹ While many members of Congress shared Nixon's distaste for busing as a means of desegregation, the president was never able to sign legislation that slowed the use of this approach in any significant way. He did, nevertheless, try repeatedly to avoid blame for the continuance of busing by attributing responsibility to the courts. In housing, Nixon ended desegregation policies indirectly by cutting off all housing funding. He did this at no electoral risk, since he waited until after his reelection to do so. The remainder of this book explores the causes and consequences of this abandonment of housing desegregation policies, at a time when the potential for changes in racially separate living patterns was virtually unparalleled.

HOW THIS BOOK UNFOLDS

Chapter 2 develops the comparative aspect of the study, situating housing antidiscrimination policies via concise analyses of civil rights policies in employment and education, as carried out by federal civil rights agencies. In employment and education, federal bureaucrats overcame factors such as presidential disapproval, public resistance, and limited authority to institute relatively strong, race-conscious policies, at least for a period of time. This chapter also considers the field of health care, where civil rights enforcement was virtually nonexistent after a brief flurry of activity when the Medicare program was launched. Faced with limited funding and resources, the Department of Health, Education, and Welfare's Office for Civil Rights (OCR) paid nearly exclusive attention to school desegregation, at the expense of discrimination in the health care system. The last part of chapter 2 establishes residential segregation as a crucial policy problem, reviewing research on the extent and effects of racial isolation in housing.

Chapter 3 begins the historical narrative about housing, recounting federal involvement in residential segregation prior to the Nixon Administration. This chapter shows that federal action or inaction can have dramatic consequences for residential patterns and racial inequality, and it illustrates that the legacy of pro-segregative policies and deferential treatment of the housing industry constrained HUD's efforts during the

Nixon Administration. I utilize several archival sources often left untapped in such inquiries, including the papers of several civil rights organizations and those of Robert C. Weaver, a pivotal figure in fighting housing discrimination throughout the twentieth century and the first secretary of HUD, a distinction that also made him the first black cabinet member in American history. In presenting this account of governmental policy-making, *Knocking on the Door* also makes use of HUD agency files, the presidential papers of Presidents Johnson, Nixon, and Carter, and the papers of HUD Secretary George Romney, as well as congressional testimony, court decisions, and secondary accounts.

In addition to documenting the evolution of federal housing policies, chapter 3 examines the long legislative battle to establish a cabinet department for housing and urban development, and the unlikely passage of the Civil Rights Act of 1968 (the Fair Housing Act). Legislative debates reflect a Congress concerned with the growing power of federal civil rights bureaucracies, and debating whether a housing antidiscrimination law would foster or forestall riots, which occurred with alarming frequency in the latter half of the 1960s. The chapter concludes with a discussion of HUD's early fair housing activities in the waning days of the Johnson Administration.

Chapter 4 describes HUD's bright civil rights prospects early in the Nixon Administration, marked by new legislative protections against housing discrimination, a greatly increased federal commitment to housing production, and support for suburban desegregation within the agency and the White House. HUD had some early successes in "opening up the suburbs" by withholding needed agency funding from localities that failed to provide low- and moderate-income housing, or that discriminated against racial minorities. Its ill-fated attempts to bring about open housing in Warren, Mich., proved highly consequential, generating negative publicity and the scrutiny of the White House. This chapter documents some of the early struggles between HUD and the White House. It also assesses some of the opportunities and constraints that HUD faced, considering the ways in which external political forces such as business elites, advocacy groups, and the public at large influenced and responded to the agency's civil rights initiatives.

Chapter 5 focuses on tensions and vulnerabilities within the agency that are traceable to its weak institutional home. HUD's housing production staffers worked furiously to process applications for HUD assistance, showing little concern for civil rights issues. This myopic attention to housing production led to scandals in the FHA that resulted in a loss of legitimacy by the agency. Before these scandals fully came to light, hopes for aggressive desegregation were bolstered by a series of court decisions that broadly interpreted HUD's mandate to ensure "affirmatively" the

right to fair housing. Corruption in the FHA's inner-city housing programs, which were unrelated to suburban desegregation, wiped away the prospects for such an attack on segregation. Despite evidence that the problems in these programs were capable of repair, President Nixon seized this political opportunity by declaring a housing "freeze" shortly after his 1972 reelection. In doing so, Nixon was able to halt federal expenditures on increasingly costly subsidy programs and to stop the housing desegregation drive indirectly. Such a move helped Nixon to sidestep much of the blame normally pinned on politicians pursuing civil rights retrenchment. It was HUD's weak institutional home for civil rights, in the context of public resistance, that gave Nixon this political opening.

Chapter 6 brings the story up to date, providing a survey of American policy approaches to residential integration since the 1973 housing freeze. The most noteworthy federal effort has been Moving to Opportunity, a voucher-based mobility program modeled on the Chicago-area Gautreaux program that ran from 1976 to 1998. Under this approach, a limited number of families eligible for public housing receive assistance in locating private housing, typically in predominantly white, suburban neighborhoods. This chapter also looks briefly at several state-level interventions to encourage racial and economic integration in housing and at the small number of suburban towns that have taken it upon themselves to promote and maintain residential integration, rather than falling prey to "white flight" and resegregation. As the towns themselves will attest, these pro-integrative policies are extraordinarily difficult to sustain in the absence of coordination among localities at the metropolitan level. Indeed, the specific policy lessons of this book are that solutions to the vexing problems of economic and racial segregation are unlikely to be realized in the absence of metropolitan-level planning.

The final chapter continues the comparative aspect of the study by examining civil rights policies in employment and education since the Nixon era, explaining retrenchment in school desegregation and the resilience of affirmative action in employment in the face of President Reagan's attempts to dismantle it. The final section summarizes the book's key theoretical and empirical findings, and examines the implications of these findings for scholarship on social policy and the development of more effective regulatory policies.