

Education, Segregation, and Structural Inequality

Schools, SCOTUS, and the Re-segregation of America



SCOTUS and Entrenchment of “De facto” Segregation

- ❖ Structural inequality in education cannot be fully understood without examination of court decisions
- ❖ These court decisions must be understood in the context of spatial geography
- ❖ “*De facto*” segregation in education = *De jure* segregation in residential patterns
- ❖ Important Court cases:
 - ❖ *Brown* (1954); *Green v. New Kent County* (1968); *Swann v. Charlotte-Mecklenburg* (1971); *San Antonio v. Rodriguez* (1973); *Milliken v. Bradley* (1974); *Oklahoma City v. Dowell* (1991); *PICS v. Seattle* (2007)

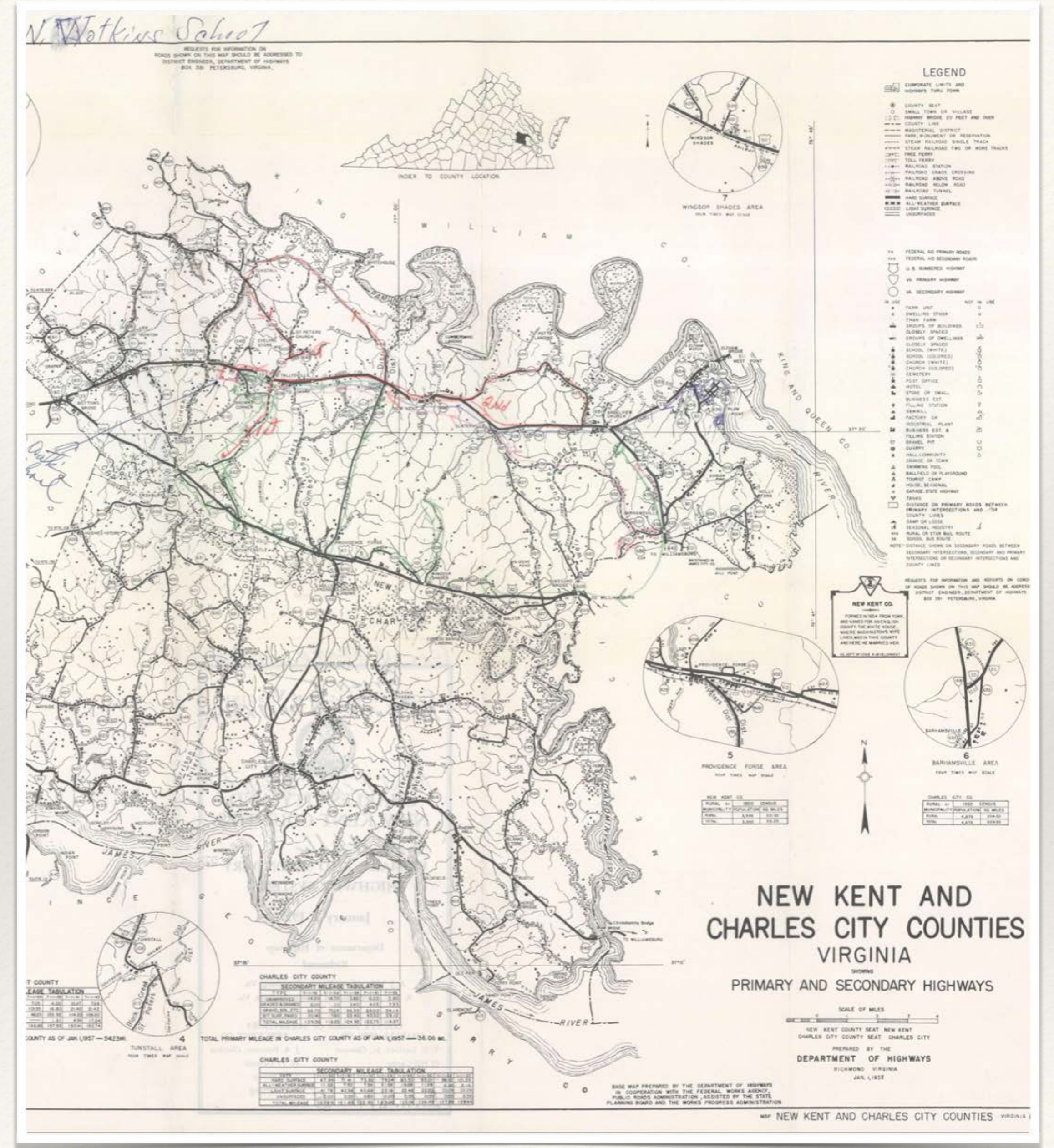


Brown Decision and the Early Years

- ❖ The Brown (1954) decision rules *de jure* school segregation unconstitutional
 - ❖ Overturns *Plessy v. Ferguson* (1896) and rules that separate facilities are inherently unequal as a violation of Equal Protection Clause of the 14th Amendment
- ❖ In *Brown II* (1955), Court rules that school districts must desegregate “with all deliberate speed.”
 - ❖ Responsibility for desegregation is given to local school boards
 - ❖ Leaves room for districts to resist

Green v. New Kent County (1968)

- New Kent County schools use a freedom of choice plan
- SCOTUS rules that the plan was ineffective, and that “The time for mere ‘deliberate speed’ has run out.”
- Critical part: school boards have an affirmative duty to dismantle and eliminate racially unitary school systems



Bus routes for Watkins School

Swann v. Charlotte-Mecklenburg (1971)

- ❖ Consolidated school district with segregated schools as a result of housing patterns
- ❖ SCOTUS rules that lower courts have three powerful tools at their disposal:
 - ❖ Racial quotas can be used as a starting point
 - ❖ Courts can redraw district lines as a corrective measure
 - ❖ Courts can mandate busing
- ❖ The last time SCOTUS is unanimous on a school segregation case



San Antonio Independent School District v. Rodriguez (1973)

- ❖ Plaintiffs argue there is a fundamental right to education, and that Texas school financial system violates Equal Protection Clause of 14th Amendment
- ❖ District Court agrees
- ❖ SCOTUS rules against
 - ❖ There is no constitutional right to education
 - ❖ Unequal school funding is not illegal
 - ❖ Poverty does not make for a suspect class

Milliken v. Bradley (1974)

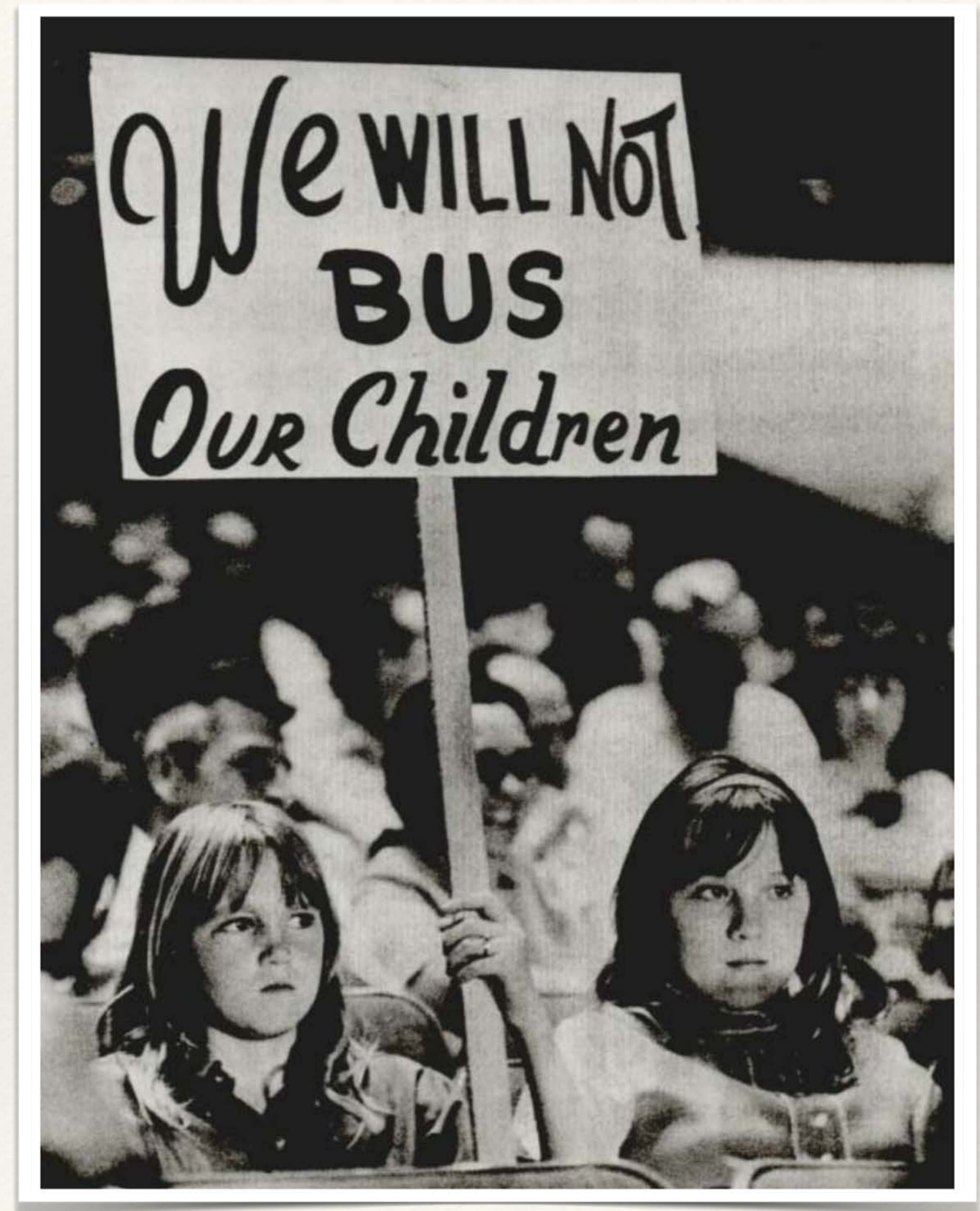
- ❖ Plaintiffs argue that Detroit schools were segregated as a result of *de jure* housing policies
- ❖ District Court orders Detroit schools and 53 adjacent suburban school districts to desegregate
 - ❖ Busing is the only viable solution
- ❖ SCOTUS disagrees:
 - ❖ Cannot force busing across school district lines
 - ❖ A Detroit-only desegregation plan is only solution
 - ❖ But how?



From the John and Leni Sinclair Papers, U-M Bentley Historical Library

Oklahoma City Schools v. Dowell (1991)

- ❖ Oklahoma City schools were under a court-ordered desegregation plan since the early-60s
- ❖ 1972-1977: court ordered busing program
- ❖ Question for SCOTUS: Can court-mandated desegregation plans continue in perpetuity?
- ❖ Answer: No
 - ❖ Once vestiges of *de jure* segregation are removed, schools no longer have burden to continue
- ❖ In short, school segregation based on racialized housing patterns is legal



Parents Involved in Community Schools v. Seattle School District No. 1 (2007)

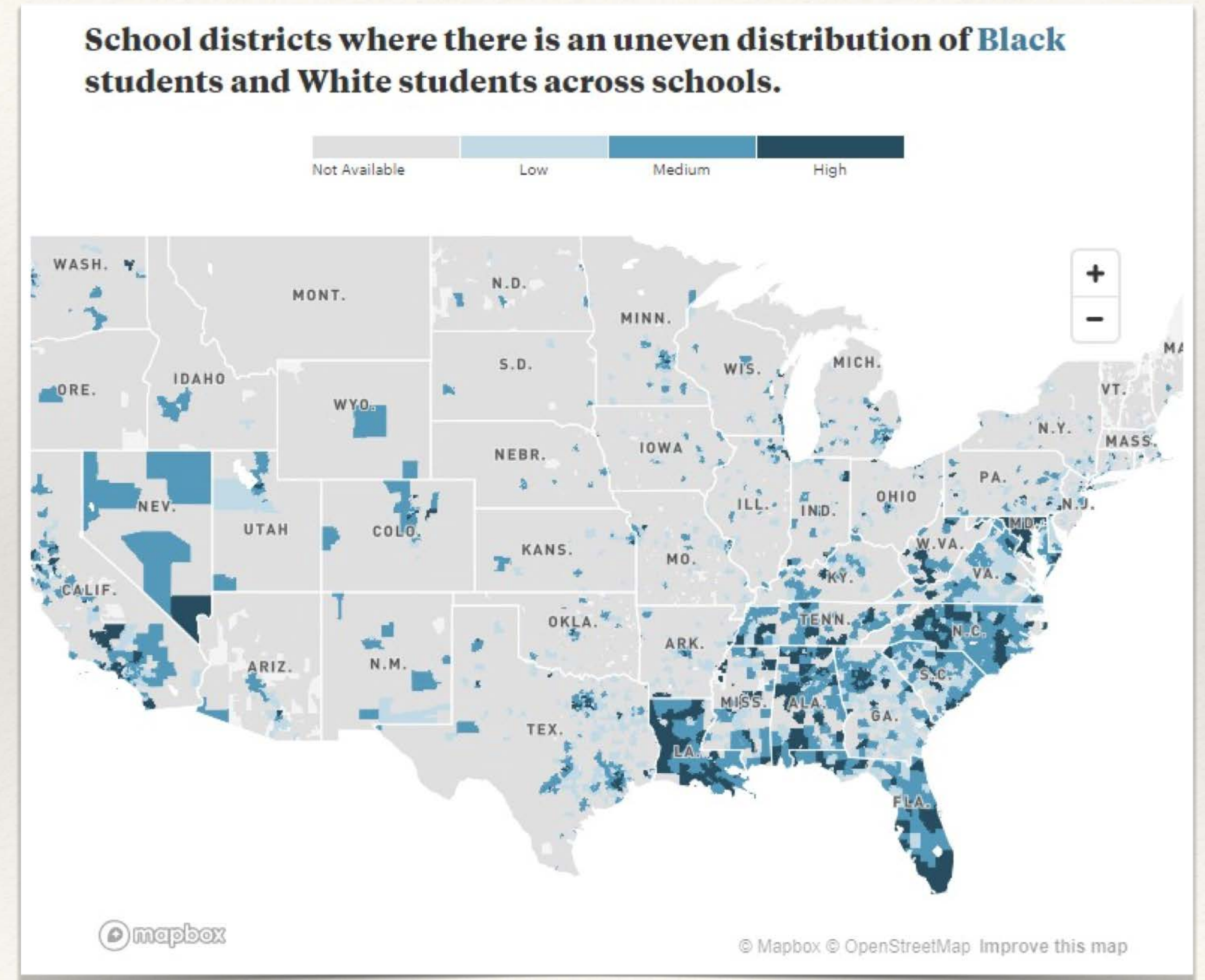
- ❖ Seattle schools used race as tiebreaker for admission to competitive high schools
- ❖ PICS sued, arguing it was a violation of Equal Protection Clause of 14th Amendment
- ❖ SCOTUS rules plan is unconstitutional
 - ❖ Students cannot be classified on basis of race, despite goal of diversity/integration
 - ❖ Race cannot be used as determinative factor
 - ❖ Seattle was never under a desegregation order, so no compelling state interest in using race for admission
- ❖ In short: Segregation based on housing patterns is not illegal



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Where are we today?

- ❖ Over half of US students attend a racially concentrated school
- ❖ Racialized poverty is a “double whammy” for students of color
- ❖ School integration is one of the best means of achieving racial equity
 - ❖ But re-segregation has accelerated in recent decades
- ❖ School segregation is tied directly to residential segregation



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Where do we go from here? Caveats:

- ❖ Equal Protection Clause has become a double-edged sword
- ❖ We cannot reliably look to the courts for remedies
 - ❖ Connections between racialized residential patterns and school segregation are well known but legally unassailable
- ❖ “De facto” school segregation is a misnomer
- ❖ School reform alone is a dead end: school of choice, voucher programs, charter schools, etc. do not address root problem

Where do we go from here? Some ideas:

- ❖ Housing voucher programs need to focus on high-opportunity areas, not high-poverty ones
- ❖ LIHTC program needs to prioritize development in low-poverty areas with high-quality schools
- ❖ Zoning reform
- ❖ Better enforcement of anti-discrimination laws
- ❖ Increase access to capital for communities of color