# Measuring the Distance: The Legacy of the Kerner Report

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*On its release in 1968, the Kerner report, with its "two societies" warning, was the subject of intense public attention. However, within a year, concerns arose that the report's influence was limited and that its recommendations were not being implemented. This perception has not changed noticeably since then. Fifty years later, it is important to accurately assess the report's legacy and whether the nation has avoided becoming two societies. It has become clear, however, that the report has been implemented more than previously thought and that it has been and continues to be influential. It has also been determined that despite progress toward eliminating the disparity between blacks and whites, it has unfortunately not yet been as extensive as is needed.*

**Keywords:** urban policy, racial discrimination, public policy, civil rights, African American socioeconomic status, riots

> We know more than we understand. We understand more than we can explain.
>
> —Claude Bernard

It has now been fifty years since the Kerner report (the 1968 account of the National Advisory Commission on Civil Disorders, see Kerner Commission) sought to provide a traumatized nation with answers as to why the rioting of 1967 occurred. Its unequivocal conclusion, that discrimination—not radicals, riffraff, or a conspiracy—had been responsible for the rioting and its pointed warning that America was moving toward "two societies, one white, one black—separate and unequal" instantly focused the nation's attention on race and the conditions of the inner city as no other governmental report had ever done. Newspapers led with headlines of "White Racism Blamed in Riots," network television devoted special coverage to the report, and the public rushed to purchase copies of it (Lipsky and Olson 1977). By the end of its first month, more people had bought copies of it than the Warren Commission report on the assassination of President Kennedy during that report's first month (Raymont 1968). Within three months, 1.6 million copies of the Kerner report had been sold (Lipsky and Olson 1977).

Yet, even on the report's first anniversary,

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**Table 1.** Kerner Commission Interviewees

| Individual | Position | Year(s) Interviewed |
|---|---|---|
| Fred Harris | Commission member | 2015 |
| Victor Palmieri | Deputy executive director | 2015, 2017 |
| David Chambers | Special assistant to executive director | 2015, 2017 |
| John Koskinen | Special assistant to deputy executive director | 2015, 2017 |
| Robert Shellow | Assistant deputy director–research | 2016 |
| Dick Nathan | Associate director for program research | 2015, 2017 |
| Gary Marx | Consultant–research staff | 2016, 2017 |
| Jay Kriegel | Assistant to commission vice chairman | 2015, 2017 |
| Peter Goldmark | Assistant to commission vice chairman | 2015, 2017 |
| Herbert Gans | Consultant | 2017 |
| Jack Rosenthal | Special consultant | 2015 |

*Source:* Author's compilation.

many of its supporters were already concerned that the report's influence was limited and that its many recommendations were being ignored (Herbers 1969). Successive years and accounts have not changed this perception noticeably (Lipsky and Olson 1977; Lupo 2011; Zelizer 2016). Many excellent efforts have been undertaken to determine whether the country has been successful in avoiding becoming two societies (Bernstein 1995; Shapiro, Meschede, and Osoro 2013; Goodman, Zhu, and Pendall 2017). However, because of the complexity of this task, these efforts are frequently only able to concentrate on a particular aspect or characteristic, such as wealth inequality (De La Cruz et al. 2018), rather than provide an overall assessment. This matter is further complicated when some areas (such as the incidence of poverty) show noticeable improvement and others (such as the ratio of black unemployment to white unemployment) virtually no change.

Fifty years is a point at which we often assess the significance of a career, a movie, or a marriage. What then is the legacy of the Kerner report? To what extent has it been influential or implemented? To what extent have we made progress since 1968? And what do the people who were responsible for writing the report believe?

For a report that sought to explain the origins of a horrendous wave of destruction and to understand the nature of race in this country (a country that has become even more racially diverse since 1968), these questions deserve to be answered. Given that three-fourths of the nation's present population was not yet born when the Kerner report was written and so may not understand how troubling 1967 was (NBC said in a documentary at the time that the nation was "in the worst crisis we have known since the Civil War") or appreciate how things may or may not have changed, this determination is even more critical.

This article seeks to address these issues. To do so, the authors have taken their direct personal knowledge and combined it with recent interviews with other Kerner Commission participants (see table 1). They have also extensively reviewed the status of many of the report's recommendations, researched what happened to other presidential reports from the same era, and examined the many ways a government report can be influential. Because statistics do not and cannot tell the entire story—we sometimes forget that data represent actual people—they have supplemented this research with interviews of African Americans from across the country to see how they view America and how that view compares with what they (or their parents) may have held fifty years ago.[1]

1. Twenty African Americans were interviewed for this article with the assurance that their identities would remain confidential. They were all friends of the authors or friends of friends. Most the authors have known well for at least ten years, and most are bankers, lawyers, accountants, engineers, and administrators. They have lived

What emerges from this effort is a view that may surprise some—a report that is more influential that what has been commonly thought—and an increased understanding of what has transpired for black Americans over the past five decades.

## THE KERNER COMMISSION'S DECISION-MAKING PROCESS

Public opinion polls presently disclose that the nation is now as politically divided as it has been at any time since 1968, and therefore it is especially important to look into how a report dealing with a matter as sensitive as race could be unanimous and so bold. It is even more significant given that at the time little indicated that this would occur. According to Tom Wicker, the eleven-member Kerner Commission had "seemed an unpromising group" when first appointed, and the conclusions of previous riot panel reports had generally been considered underwhelming (Kerner Report 1968; Platt 1971; Lupo 2011). The complexity of the task before the commission also did not lead one to believe that the outcome of this group would be any different, John Kenneth Galbraith remarking that, instead of appointing a commission on rioting and calling for a national day of prayer as President Lyndon Johnson had done, "it might have been more constructive to establish a commission on prayer and declare a national day of rioting" (Rosenthal 1969). Yet, through a combination of urgency, commitment, respect, and skillful management, the commission overcame these obstacles and produced a surprisingly forceful and comprehensive report.

One of the most important decisions that led to the development of such a report was the early decision by David Ginsburg, the commissioner's executive director, that the commission be given every paragraph of every draft section, that these would be read aloud, and that the commission would not move onto the next section until agreement was reached or the section had been sent back for revisions. This brilliant brick-by-brick strategy allowed the commission to focus on the matter at hand, enabled the report to become the commission's rather than the staff's, and eliminated the need to have a final vote on the entire report (Loessberg 2017).

Previous accounts of the commission's work and recent interviews with commission participants indicate that the major disagreements that arose among commission members were not over what was the cause of the rioting, but on semantics and what should be done to prevent future rioting. Commission members Fred Harris, John Lindsay, Roy Wilkins, and Otto Kerner were usually supportive of more ambitious proposals; fellow members I. W. Abel, William McCulloch, Katharine Peden, and Charles Thornton were typically more concerned about their costs or political realities. The commission's remaining members—Herbert Jenkins, James Corman, and Edward Brooke—moved between the two primary groups depending on the issue. With many key matters decided on six-to-five votes, the respect that commission members showed one another allowed them to proceed under what was a very short schedule and to subsequently adopt a unanimous final report (Loessberg 2017).[2]

in or are from states as far west as Nevada and Arizona; as far south as Louisiana, Mississippi, and Florida; as far east as Washington, D.C.; and as far north as New York and Ohio. Although this population obviously does not constitute a randomly drawn sample, the authors believe their views on discrimination and whether there has been progress since 1968 are nonetheless significant. All of the interviewees are professional in both occupation and appearance. Yet, they can all cite recent instances of encountering some type of discrimination or social slight. Most are also the first members of their family to have a college education or to firmly become part of the black middle class. Because many of their siblings and childhood friends have not experienced the same success, they understand that their success is still unique and was not preordained.

2. Under the instructions issued by President Johnson on the creation of the commission, it was to make an interim report in seven months by March 1, 1968, and a final report five months later. Given the complexity and the enormity of the assignment, delivering a final report in twelve months was already going to require significant effort. However, in December 1967, factors beyond the commission's control led to a decision to eliminate the interim report and to shorten the schedule for the final report even further to March 1, 1968. Some speculated

However, for all of this skill, hard work, and courtesy, it was not until the very end that it became clear that the report would be unanimous. As commission member Fred Harris noted, despite elements in the report that some members may not have liked (such as its call for new taxes), not to have had a unanimous report when the nation seemed to be in crisis would have been "a catastrophe."[3] Such an attitude is in marked contrast to today, when one needs not just to win, but to win only on one's terms.

## The Status of "Two Societies"

The Kerner report's warning that the nation was moving toward two societies is perhaps one of the most vivid and best-remembered phrases of any governmental report. Even without any other description or supporting data, the phrase instantly produces a stark picture of what the commission found.

The origination of this phrase can be credited to Jack Rosenthal, who wrote much of the report's narrative. In a chapter titled "The Future of the Cities," Rosenthal used similar wording ("the nation is rapidly moving toward two increasingly separate Americas") to describe the suburbanization of employment opportunities and the white population under way at the time. He used it to emphasize the increasing geographic and economic separation of blacks and whites, but other Kerner staff, principally Jay Kriegel and Peter Goldmark, recognized the powerful potential of the phrase, polished it, and incorporated into the report's widely read summary (Loessberg 2017).

In using this phrase, the commission was not implying that the nation had once been "a single society" and was now in danger of losing this distinction—the report's chapter on the history of racism in America, which was based on information provided by African American historian John Hope Franklin, makes this quite clear. Rather, it was using the phrase to express its findings and its concerns.

The report did not just rely on the evocative phrase to make its case about the status of blacks; it invoked numerous statistics across a variety of subject areas—housing, life expectancy, income, educational attainment, and so on—to demonstrate that black America was substantially different from white America. Re-

at the time and since then that this was an effort to cut short the individual city investigations or to rush through a final report without consideration of alternative drafts. The reality is much more straightforward. In early December, the commission's executive director (David Ginsburg), his deputy executive director (Victor Palmieri), and the special assistant to the deputy executive director (John Koskinen) were called to the White House to meet with Bureau of the Budget (now the Office of Management and Budget) Director Charles Shultz. Shultz explained that the commission had been funded to that point out of the $1 million emergency fund of the president. Those funds were nearing depletion, and the planned supplemental budget request to Congress, which normally occurred in December, would not be made. Shultz did not explain in detail why, but President Johnson at the time was struggling to fund both "guns and butter." In this case, he was anxious to continue to fund domestic social programs at the same time funding was provided for the Vietnam War and anticipated that a supplemental appropriation request would trigger a public debate about the strains on the budget. In any event, the message from Shultz was that the commission would get no more direct funding and that the staff would have to work with other agencies—such as the departments of Defense; Commerce; and Health, Education, and Welfare—to fund specific commission projects. Clearly, this meant that the work that had begun on an interim report would now be focused on a single, final report that would have to be completed in the next few weeks. Palmieri and Koskinen soon held a meeting with the Kerner Commission staff, which by that time included more than two hundred people, in mid-December to advise them that most of them would not be employed after the end of the year. Although the decision not to seek a supplemental appropriation created significant stress for the commission and its staff, the final result of a single report that was focused on the nature of the problem no doubt had a much more significant impact than two reports separated by five or six months would have had. And, although no one knew it at the time, the riots that erupted after Martin Luther King's assassination in April 1968 further sharpened focus on the commission report and its finding that the country was moving toward two societies, separate and unequal.

3. Fred Harris, interview with Rick Loessberg, May 26, 2015.

**Table 2.** Educational Attainment and Economic Characteristics

| | 1968 | 2015 |
|---|---|---|
| Blacks with high school diploma or GED | 30.1 | 84.8 |
| Whites with high school diploma or GED | 55.0 | 88.8 |
| Blacks with college degree | 4.3 | 20.3 |
| Whites with college degree | 11.1 | 31.8 |
| Black families in poverty | 32.4 | 21.6 |
| White families in poverty | 8.4 | 8.3 |
| Ratio of black unemployment to white unemployment | 2.15 | 2.29 |
| Ratio of black household med income to white household med income | 0.61 | 0.62 |

*Source:* Author's compilation based on 1968 Current Population Reports, 1969 Current Population Reports, 1974 Current Population Reports, 2011–2015 American Community Survey, 2015 Bureau of Labor Statistics, 2015 American Community Survey.
*Note:* All numbers in percentages except ratios.

visiting these same statistics fifty years later, as well as several other indices, some improvements are especially noticeable. Life expectancy, for instance, has increased dramatically for blacks, from 64.1 years in 1969 to 75.5 in 2013 and is now only 4.6 years less than that for whites (in 1969, the difference was almost eight years).

Significant progress has also been made in closing the educational attainment gap between blacks and whites. As shown in table 2, blacks now complete high school at almost the same rate as whites, and whereas whites once had a college education rate that was three times greater than that of blacks, the difference is now only about one-third.

With this increase in education has come a noticeable decline in the poverty rate for black families. More important, the black middle class has expanded and is now almost proportionate to the black population's relationship to the nation (Pew Research Center 2015).[4] Paul Jargowsky, who has studied housing patterns and the concentration of poverty, notes that we now "have a very robust black middle class" and that you "don't have to look at the data . . . it is there to see."[5] Similarly, Robert Shellow, who oversaw the commission's field data analysis, points to a "huge surge of blacks in the middle class."[6] Accompanying this growth in the black middle class has been an increase in the percentage of blacks holding white-collar jobs. In 1972, for instance, only 34.8 percent of blacks were employed in such positions. By 2006, however, this figure had risen to 49.5 percent (Ware and Davis 2012).

Unfortunately, as shown in table 3, not all of the benefits associated with improved education have readily translated to other economic advancement. Black median income is still only about 60 percent of whites', and the black unemployment rate continues to remain twice that of whites. The homeownership rate for blacks is basically unchanged, and the relative median value of their home has changed only marginally.

One area, though, where positive change has begun to occur is in the residential patterns of urban America. At the time of Kerner, neighborhoods were highly segregated. In 1970, it was estimated that 79 percent of either the black or white population in most cities would have to move for the proportion of blacks and whites in a city's census tracts to be representative (Logan and Stults 2011); when blacks began moving into white neighborhoods, whites often ha-

4. In this instance, middle class is defined as those households whose incomes fall into the middle of three tiers and is equal to at least two-thirds of the nation's median household income and no greater than twice this amount.

5. Paul Jargowsky, interview with Rick Loessberg. June 29, 2017.

6. Robert Shellow, interview with Rick Loessberg. March 23, 2016.

**Table 3.** Housing Characteristics

| | 1970 | 2015 |
|---|---|---|
| Black households owning | 41.6% | 42.2 % |
| White households owning | 62.9 | 67.0 |
| | 1968 | 2015 |
| Ratio of black median home value to white median home value | 0.62 | 0.69 |

*Source*: Author's compilation based on 1970 Census of Housing, 1973 Annual Housing Survey, 2000 Census, 2011–2015 American Community Survey, 2015 American Housing Survey, Collins and Margo 2001.

rassed their new neighbors or seemingly moved out en masse (Rothstein 2017).

However, according to research from a variety of sources, although segregation continues, "most neighborhoods are becoming more diverse" (Farrell and Lee 2011). For example, although in 1960 nearly 50 percent of the black population lived in neighborhoods where they made up at least 80 percent of the residents, in 2010, only 20 percent did (Glaeser and Vigdor 2012). Not surprisingly, the percentage of the black or white population in 2010 that would have to move to achieve a proportional distribution had fallen to 59 percent (Logan and Stults 2011).

Such an improvement holds several important long-term consequences. First, it appears that much of the integration has involved African Americans leaving older, more segregated, cities for the suburbs and for relatively newer Sunbelt cities (Glaeser and Vigdor 2012; Lee, Iceland, and Sharp 2012). Given that suburbs and the Sunbelt often have more employment opportunities and better school systems, such integration should help reduce the continuing black-white economic disparity. This change also apparently reflects a significant cultural and attitudinal shift, in that 64 percent of white Americans said in 1972 that homeowners should be allowed to racially discriminate when selling their homes (Bobo et al. 2012).

Another area showing important progress is the rise of black elected officials. Although the Kerner Commission was clearly concerned about the sense of powerlessness it detected during its many site visits, it did not anticipate the effect that the 1965 Voting Rights Act and the relatively recent one-man-one-vote principle of *Baker v. Carr* would have on the political landscape.[7] As a result, the report includes little discussion about increased black political representation and only then in the context of when a city became majority-minority. However, since 1965, the number of African American elected officials has increased from less than a thousand to more than ten thousand, and the percentage of blacks in the 2015 House of Representatives approached the proportion of the black U.S. voting age population (Brown-Dean et al. 2015). Black mayors have been elected in cities that were not predominantly minority (such as Dallas and Los Angeles) and black senators in states that were primarily white (Massachusetts, New Jersey, South Carolina, and Illinois), and an African American was, of course, elected president in 2008 and reelected in 2012.

Unfortunately, whenever a Douglas Wilder has been elected governor of a primarily white state, this has generally turned out to be a gratifying, but isolated, event: the number of black U.S. senators, governors, city councilpersons, and state legislators is still much lower than the percentage of the nation that is black (Brown-Dean et al. 2015). Perhaps, much as was initially the case when integration began in white neighborhoods, it was not that a black moving into the neighborhood was the issue; it was the number of blacks. The same may be true for the electoral process—whites are pres-

7. *Baker v. Carr*, 369 U.S. 186 (1962).

ently comfortable with having a few black elected officials, but no more than that.

## ASSESSING CHANGES IN WHITE ATTITUDES AND OPINIONS

Because the Kerner report concludes that white discrimination and prejudice had been responsible for the disparate living conditions of most blacks, no meaningful change in the socioeconomic status of African Americans can ever realistically occur without a simultaneous significant change in white attitudes. A review of various public opinion polls, existing research, and interviews with African Americans conducted for this article yields various indications that some important changes have occurred.

As noted earlier, neighborhood integration has become established in many cities. Also, it is generally thought that the most overt and blatant forms of racism and discrimination have disappeared and that other social customs have changed noticeably (Pager and Shepherd 2008; King and Jones 2016). As one interviewee for this article simply and bluntly remarked, he can now inadvertently make eye contact with a white woman and not feel as if he is going to be lynched. A comprehensive review of General Social Survey results from 1972 to 2008 similarly concludes that the data "documents a sweeping and fundamental change in norms regarding race" and "strongly points to a large and growing orbit of social and political acceptance for African Americans" (Bobo et al. 2012, 73–74).

Illustrating this change is a daily scene in the food court of a major downtown Dallas office building. When one of the authors began frequenting this food court in the mid-1980s, almost all the people eating their lunches were white. Today, not only is the clientele racially diverse, but so are the people sitting around individual tables. Such a situation not only reflects more integrated social groupings and a more integrated work force, but as Elijah Anderson explains, it also presents an opportunity to influence others (2012).

However, for all of this improvement, discrimination continues to occur, albeit perhaps on a more subtle basis. According to a 2013 study for the Department of Housing and Urban Development, black homebuyers are typically shown or told about fewer homes than comparable white homebuyers (Turner et al. 2013). Similarly, a 2004 study that examined employment discrimination found that job applicants with "Anglo-sounding" names, such as Brad and Emily, were offered interviews at a rate about 50 percent higher than comparable applicants with "African American–sounding" names, such as Jamal and Lakisha (Bertrand and Mullainathan 2004).

A 2016 Pew Research Center study disclosed that 18 percent of surveyed blacks felt that police had unfairly stopped them within the previous year. Such findings are similar to the responses given by blacks interviewed for this article; these individuals cite examples of being stopped because a bicycle in the neighborhood had been stolen, their car headlights were not working properly, they had out-of-state license plates, or the front bumper of their car extended past the line at an intersection. Because of the unfortunate outcome that can arise if such encounters are not handled properly, the blacks interviewed explain that, early on, they have to have "the talk" with their children, especially their sons. However, whereas for whites the talk usually deals with "the birds and the bees," for blacks it deals with how to interact with the police.

Besides the continuation of such discrimination, another factor that complicates America's ability to make progress is the discrepancy between blacks and whites as to whether discrimination continues to exist. For example, whereas in 2016, 52 percent of whites felt that minorities had the same employment opportunities as whites, only 20 percent of blacks agreed. Eighty percent of whites also thought that blacks were treated the same in local stores; only 47 percent of blacks felt the same (Gallup 2016).

Such a discrepancy may indicate that perhaps whites still do not fully understand the many forms that discrimination and prejudice can take above and beyond being a member of the Klan. Gary Marx, who was on the commission's research staff, has long maintained that the commission should have explained what it meant when it wrote, "white society is deeply

implicated in the ghetto. White institutions created it, white institutions maintain it, and white society condones it" (Kerner Report 1968, 1; Marx 1970, 2016). He believes that the report would have been far more influential had it differentiated institutional racism from idiosyncratic racism, racist attitudes from racist behavior, and self-conscious and intended racism from subconscious, nonreflective, and unintentional behavior, and attitudes that may have racist consequences.

Discrimination often being so subtle, such an explanation could have helped those whites who finally understood that requiring blacks to use separate bathroom facilities was inappropriate, but who did not realize how some of their other long-standing preferences, practices, or comments still constituted discrimination (Martin 2016; Banaji and Greenwald 2016). Matthew Hughey's recent study of white attitudes shows that even whites that belong to organizations that were created to support racial equality express personal opinions that are seemingly contradictory to the purpose of these organizations (2017).

The African Americans interviewed for this article also repeatedly gave examples of subtle forms of discrimination that they encounter: being followed in stores "unless they are wearing a coat and tie," encountering sales people who chat with white customers but say almost nothing to them, and having people not hold doors open for them. Another interviewee told of being a waitress while working her way through college and being by asked by the white wait staff to handle tables with black customers because "they don't tip much, or they don't buy much." Such instances cause John Wiley Price, the first African American to be elected as a county commissioner in Texas, to say that blacks are required to have a second I.Q.—an "insult quota"—and whether these actions are intended to be discriminatory and prejudicial or deliberate, subconscious, rationalized, or completely accidental, they still have the effect of continuing an America with two societies.[8]

## WHAT DOES IT ALL MEAN?

According to the vast majority of the commission staff, "enormous change" has occurred since 1968. However, as Gary Marx notes, what progress you see depends upon where you stand.[9] One of the authors, who was on the Kerner Commission's staff, similarly compares the situation to the scene that one views through a kaleidoscope. Twisting the end of this kaleidoscope can give someone else a very different image.

Given how traditional the members of the Kerner Commission itself were, they would likely be pleased with the increase in black educational attainment and the size of the black middle class that has been achieved. However, they would also likely be dismayed by the corresponding lack of relative change in median income and unemployment.

Peter Goldmark, who was one of Commission Vice Chairman John Lindsay's assistants, believes that Lindsay would be "very distressed" by the events of the past few years (efforts to restrict and complicate minority voting, continued police shootings, and so on), but that "he would still see that there had been progress."[10] David Chambers, who was David Ginsburg's special assistant, is a little less sanguine about how the commission would view today's world.[11] Although Chambers says that he does "not doubt for a minute that we've made progress," he is concerned that more has still not been achieved, and he believes that the commission would feel the same, suggesting that, if the progress of the last fifty years had occurred within a decade, then the commission would have been "stunned" by what had happened. However, on discovering that it had actually taken fifty years to get to this point, they would be very disappointed.

Richard Nathan, the commission's associate director for program research, and commission

8. John Wiley Price, interview with Rick Loessberg, June 19, 2017.

9. Gary Marx, interview with Rick Loessberg, June 15. 2017.

10. Peter Goldmark, interview with Rick Loessberg, June 24, 2017.

11. David Chambers, interview with Rick Loessberg, May 5, 2017.

member Fred Harris have similar views as to the progress that has been made. Both believe that progress was made on "virtually every aspect of race and poverty" for a period of time (National Public Radio 2017).[12] However, globalization and the automation and export of the U.S. manufacturing base—and one can also add double-digit inflation, the AIDS crisis, Watergate, and the emergence of homelessness—greatly complicated this progress. So despite an expanded black middle class today and many blacks now having more opportunities than ever, a large group has been left behind in the inner city. For example, in 1966, more than about one-half of America's blacks lived in the central city; by 2016, about one-third did.

The change in our manufacturing base also helps explain why, despite increased educational attainment, relative median income, relative black-white unemployment, black homeownership, and black wealth have changed little. Traditionally, manufacturing provided many unskilled workers with entry-level jobs, relatively higher wages, and a chance to acquire skills and be promoted. However, as manufacturing employment began to decline rapidly in the 1970s and 1980s, this opportunity also declined significantly, as did the corresponding ability to earn a higher income, become a homeowner, and accumulate wealth.

These Kerner Commission participant views are quite similar to those of the African Americans interviewed for this article. However, the interviewees tend to see the glass being more half-full than the Kerner participants. The black interviewees believe that things "have changed significantly," one explaining, "I know what it is like to drink from a colored fountain . . . we have made great progress." Yet, this same individual, along with others, also specifically acknowledges that parts of cities still do not look much different than they did before the report. "We are unquestionably better off," said another, "but we still have more to go."

Both groups attribute the lack of even more significant progress to the lingering effects of past practices and the institutional barriers that remain. As an example, many people find out about job openings and career possibilities from friends. However, until the 1964 Civil Rights Act (which made discrimination in employment illegal), many occupations were realistically not available to African Americans. As a result, blacks generally have only recently had the opportunity to develop contacts and networks in a variety of fields previously closed to them. This, when combined with the noted reduction in manufacturing, has made black economic advancement even more difficult.

In addition, some discussion among both groups has focused on whether fifty years is realistically enough time to eliminate the vast disparity between blacks and whites, given the other issues that have competed for the nation's attention and the difficulty of race in the United States. As one African American interviewee remarked, "fifty years seems like a long time until you turn fifty." Considering that it took one hundred years after slavery ended for blacks to just be able to sit next to a white person in a restaurant, the progress of the last fifty years may begin to look different—though still not where it should be.

The Kerner staff and the black interviewees again have identical views on whether the recent trend of cell phone–recorded police incidents indicates an increased level of racism among police. Both groups view this as the product of increased technology, not proof that police racism is increasing. One interviewee suggested that the recording and the repeated disclosure of such incidents could help reduce these police incidents and help whites realize that racism still exists: "sometimes whites need to see things to believe them." Peter Goldmark also believes that these incidents do not represent a step backward (interview, see note 10). "Despite what we see today . . . we are not going back."

## HOW COMMISSION REPORTS CAN BE INFLUENTIAL

The influence of the Kerner report is often assessed on the basis of whether its many recommendations were actually adopted (Lupo 2011). This is understandable given the number of recommendations (about one-fifth of the nearly seven hundred pages were devoted to this) and

12. Richard Nathan, interview with Rick Loessberg, June 12, 2017.

the significance that the report attached to having them implemented—"There can be no higher priority for national action and no higher claim on the nation's conscience."

However, a document like the Kerner report can be influential several other ways. It can educate, which, says David Flitner, who has extensively studied presidential commissions, "is no small thing in a democracy," and it can inform and persuade (Rosenbaum 2005, 3). It can inspire, provide a platform, or provide justification and credibility. It can provide new data and a new way of thinking; it can guide decisions about policy; and it can offer a course of action. A review of the Kerner report over the past fifty years, shows, perhaps surprisingly so, how active it has been in all of these roles.

## EDUCATING AND INFORMING AMERICA

From its beginning, the commission realized that, regardless of how dire the conditions that it saw were, unless it could convincingly convey that information to white America, what was recommended did not matter. A September 21, 1967, memo from the commission's deputy executive director to its executive director emphasized that one of the objectives of the report was "to focus the attention of the American people—particularly the suburban white population—on the critical issues presented by the riots" (Lipsky and Olson 1977). A memo from commission member James Corman to the commission's executive director a month later made a similar point: "Testimony before the Commission has repeatedly referred to an appalling ignorance among white Americans concerning current conditions in urban ghettos. It is essential that the Commission be brutally honest in this regard" (1967).

With the understanding that it would first have to educate, the commission set out to present a report that would forcefully describe the many ways in which black America differed from white America. *Newsweek* singled out the report for "its unsparing detail," and its ability to "sketch . . . the pattern of economic exclusion, unresponsiveness by local government, abrasive police tactics and 'pervasive discrimination' that has left the Negro uniquely isolated and embittered" (1968, 19). Jack Rosenthal was especially proud of how the report served as "a pistol shot in the ear of the nation."[13] Richard Rothstein, who has studied housing patterns and the federal government's role in creating residential segregation, says the report was "very influential in terms of informing people's awareness that the ghetto was not created by accident and not created by the choice of its residents."[14] Even conservative Congressman Dan Kuykendall, who criticized the report for blaming "everyone and everything" for the riots "except the two principal culprits—the lawless, who seize any excuse to pillage and destroy, and the politicians, who for political advantage, overpromise the disadvantaged," recognized that "there is no doubt the problems outlined in the report do exist."[15]

The report's efforts to educate were further enhanced by the standing of the commission that produced it and the attention that the report received. These aspects helped give it credibility and a platform from which to reach the public. As mentioned, the response the report received was intense; for several weeks, it monopolized the nation's attention, no small feat given that the Tet Offensive had just turned the Vietnam War upside down, and America had begun what would become one of the most dramatic presidential campaigns in its history.

That the report, which presented such a deplorable picture of black urban America, was unanimously adopted by a commission that included not ivory tower professors, fiery radicals, or black nationalists, but a senator from Oklahoma (Fred Harris), a police chief from the South (Herbert Jenkins), a radio station operator from Kentucky (Katherine Peden), and a small-town Republican congressman (William McCulloch), gave it a sense of respectability

13. Jack Rosenthal, interview with Rick Loessberg, March 3, 2015.

14. Richard Rothstein, interview with Rick Loessberg, June 6, 2017.

15. 114 Cong. Rec. 5280 (1968).

that was critical.[16] Peter Goldmark says that this was one of the first times that so many political leaders of different backgrounds came together to talk about race in this manner (interview, see note 10). Former Attorney General Nicholas Katzenbach also said at the time that the attention and the prestige that the report carried greatly mattered to African Americans. "Statements by the Kerner Commission like 'white racism' are extremely important. They help restore the confidence of the black community in the integrity of government and public institutions" (Rosenthal 1969, 60).

Besides educating white America about the living conditions of many urban blacks, the report also helped begin to dispel the strongly held sentiment that the rioting had been caused by some combination of outside agitators, a conspiracy, and local riffraff. A variety of polls taken in 1967 showed that as many as 71 percent of whites thought the rioting was organized and that 45 percent thought that the organizing was done by outside parties (Woods 2016). Other polls showed that about one-third of whites thought that the "main cause" of the 1967 rioting had been "looters and other undesirables" (Campbell and Schuman 1968, 47).

However, using intelligence reports from the Federal Bureau of Investigation, testimony from J. Edgar Hoover, and interviews with more than 1,200 people who witnessed the rioting, the commission found no evidence of a conspiracy or the involvement of outside agitators; and when this information was combined with a special analysis of the arrest reports of 13,102 rioters in twenty-two cities, it found that the typical rioter was no more representative of the criminal element than other members of his neighborhood (Fogelson and Hill 1968) and was

> in many ways very different from the stereotypes. He was not a migrant. He was born in the state and was a life-long resident of the city in which the riot took place. Economically his position was about the same as his Negro neighbors who did not actively participate in the riot [and] . . . although he had not, usually, graduated from high school, he was somewhat better educated than the average inner-city Negro. (Kerner Report 1968, 128)

According to the sociologist Seymour Spilerman, this was one of the first times that the "riffraff" theory could be empirically refuted.[17] With white America having already begun blaming conspiracies and extremists for the rioting and the rise of law and order being one of the major campaign issues of 1968 (White 1969), this determination was invaluable as the country sought to move forward after the events of 1967.

Polling data shows how white beliefs about the causes of the rioting changed before and after the report was released. In a Harris poll taken immediately after the Newark and Detroit riots, whites were asked to identify "the two or three main reasons" for the riots (*Newsweek* 1967). Forty-five percent said outside agitation, the most-cited explanation. Only 16 percent identified prejudice. However, in a Harris poll conducted about a month after the report was released, 37 percent of whites now said that the riots were "brought on mainly by white racism" (Harris 1968, A5). Although this change in opinion still did not represent the view of a majority of white opinion, it did represent a doubling of what was previously thought, and it helped diminish the then-prevailing sentiment and prevented it from dangerously expanding further.

The analysis of who rioted, the detailed descriptions of how riots unfolded (which were called "the best-documented record of civil disorders, certain to become a prime reference work," *Business Week* 1968, 31), and the extensive surveying that was conducted in fifteen cities have subsequently provided the foundation for much of the research on riots and collective behavior that has been conducted since. The

16. The commission's other seven members were also establishment types: I.W. Abel was a labor union president; Charles Thornton was a defense contractor; Edward Brooke was a senator from Massachusetts; John Lindsay was mayor of New York; Roy Wilkins was the head of the NAACP; James Corman was a congressman from California; and Otto Kerner was the governor of Illinois.

17. Seymour Spilerman, interview with Rick Loessberg. July 7, 2017.

surveying of racial attitudes done on behalf of the commission has been called "groundbreaking for understanding race relations in the United States" (Michalos 2014, 782). Spilerman, whose work from 1970 to 1976 is regarded as being "the definitive word on the 1960s riots" (Myers 1997, 94), relied on the report for both background and data (interview, see note 18). Others, such as Nathan Caplan and Jeffrey Paige (1968), Clark McPhail (1994), and Daniel Myers (1997) similarly used the report in their work on riots, Myers saying later that the report was "absolutely central to the riot literature that emerged" after 1968.[18]

The report also helped educate a generation of college graduates, leaders, business people, policemen, and public administrators. The report's analysis of what had happened and why found its way into numerous sociology, government, and urban studies textbooks during the 1970s, many of these books quoting the report extensively (Dye 1969, 1972; Fickers and Graves 1971; Berger 1978; Cousins and Nagpaul 1979). Copies of the report also continued to be sold during the early 1970s at a rate of about 2,500 per year for use by the public and in corporations, schools, police departments, and community organizations (Lipsky and Olson 1977).

## IMPLEMENTATION OF RECOMMENDATIONS

The Kerner Commission first sought to educate a nation, but it ultimately wanted the nation to take action and to adopt the recommendations it was prescribing. As a result, although "a legislative box score" is not, and should not, be the sole measure of whether a commission report has been influential (Rosenbaum 2005), the analysis should be made, especially for a report whose recommendations were premised on preventing future rioting. However, trying to assess whether the Kerner report's recommendations have been implemented is difficult given the sheer number of them and the various forms they took. Some, such as calling for the passage of a federal fair housing law, are specific, so determining whether they have been implemented is very straightforward. Others, though, such as improving program coordination, are far more difficult to determine, given their vagueness.

Recognizing this, the authors have sought to assess the implementation status of the thirty-one recommendations for national action identified in the report's summary as well as the recommendations that the report made that pertain to law enforcement and the media. These are not only the report's most significant recommendations, but they also generally lend themselves to some type of implementation assessment.

As shown in table 4, some form of action was taken on many of the report's recommendations, much of it within the first five years of publication—a position also shared by the commission's executive director David Ginsburg (1988). Some action was on a very significant scale; the 1968 Housing Act, for instance, created new housing programs and national assisted-housing goals and was called by Senate House Banking Committee Chairman John Sparkman as "the most comprehensive housing and urban development bill . . . ever presented to the Senate."[19] Funding for Model Cities and Urban Renewal doubled in a very short time. The Fair Housing Act was approved. The Equal Employment Opportunity Commission was substantially strengthened. The House passed a bill in 1970 that would have revolutionized welfare. The Comprehensive Employment and Training Act consolidated ten employment and training programs into one. Funding for education doubled in many areas. Such accomplishments would run counter to the statement that "while the Johnson Administration reacted harshly to the recommendations and refused to implement them, the Nixon Administration [which took office a year after the report was produced] did so to an even greater degree, making it nearly impossible for any of the recommendations to become policy" (Lupo 2011, 149).

Granted, some of the action taken was often piecemeal and of a much lesser scale than envisioned. Funding for the JOBS training pro-

18. Daniel Myers, interview with Rick Loessberg, August 2, 2017.

19. 114 Cong. Rec. 14943 (1968).

gram and for school desegregation never amounted to much, the percentage of the eligible population that participates in Head Start today is about the same as it was in 1968, and only about one-third of the report's five-year housing goal was met. It is these results that lead others to conclude that the report's implementation has not been "consistent with the scope and urgency" of its recommendations (Lipsky and Olson 1977, 141), a finding much closer to the reality than those who say that no or little action was ever taken (Lupo 2011, 149–51).

Given that so much of the discussion about the influence of the Kerner report usually centers on whether its national action recommendations were adopted, it is understandable that the report's law enforcement and media recommendations often get overlooked. However, given the intense level of resentment that the police generated in many black neighborhoods, that almost all of the major riots that occurred in 1967 began with a fairly routine police encounter, and that poor police responses sometimes caused these encounters to explode into major confrontations, the report's law enforcement recommendations were, in many respects, actually more important than those that dealt with housing or education. In fact, these recommendations were so important that the commission immediately began releasing some of them rather than waiting six months to include them in the final report.

On August 10, 1967, only two weeks after it had been appointed, the commission recommended that the number of blacks in the National Guard be substantially increased and that its riot training be expanded and improved as rapidly as possible. Eight weeks later, on October 7, 1967, the commission recommended that the Justice Department begin providing training to local police departments on improving community relations, crowd control techniques, crisis situation decision making, and joint operations. The commission's final report, which was released on March 1, 1968, then contained more detailed recommendations regarding the need to diversify local police departments, develop strong citizen complaint processes, improve police tactics, increase crowd control training, develop new codes of conduct, and review existing field procedures.

Although it is difficult to determine the extent to which some of these recommendations, such as reviewing field procedures, have been implemented nationally, for others it is possible to do so. As an example, during the winter of 1967–1968, the Justice Department conducted four, one-week, conference sessions on the topics suggested by the commission for four hundred mayors, city managers, and police officials from the 136 largest cities in the country (Urban America and The Urban Coalition 1969). National Guard training was also quickly expanded (GAO 1972; Urban America and The Urban Coalition 1969). Many other cities began revising their training programs and operational practices, some cities (such as Atlanta and Boston) also requiring their police officers to read the Kerner report (Jenkins 1969; Bratton 2016).

It is thought that, collectively, these Justice Department conferences, local efforts, and new National Guard training explained the lesser property damage and lower loss of life during the April 1968 riots that followed Martin Luther King's death than what had occurred in 1967. According to the executive director of the International Association of Chiefs of Police: "There is no question that the lessons learned from the report by the police and National Guard made it possible to handle the riots which sprang up. I believe considerable credit for the collection and dissemination of meaningful lessons belongs to the Commission and the work it stimulated" (Gillon 2017, 326).

The International City Managers Association reached a similar conclusion: "Police departments have become more adept at handling potential riot situations. While riot potential was greater in 1968 than in 1967, the triggering events were rapidly controlled and large-scale disorders thus were avoided" (Urban America and The Urban Coalition 1969, 69–70).

More contemporary accounts have also continued to attribute the relatively few civil disturbances that have occurred since 1968 to the training and strategy that have become common-place since the report was issued (Herbers 1988; Barnhart 2008). In fact, Jay Kriegel, another of John Lindsay's assistants, says

**Table 4.** Implementation of Report's Recommendations for National Action

| Report Recommendation | Implementation Status |
|---|---|
| 1. Consolidate existing manpower programs to avoid fragmentation and duplication | Ten employment and training programs consolidated into one program (CETA) in 1973 |
| 2. Create one million public-sector jobs and one million private-sector jobs within three years for hardcore unemployed | PEP created 185,000 public employment jobs in 1972; CETA created 755,000 in 1978; targeted Jobs Tax Credit created about 700,000 private-sector jobs in mid-1980s |
| 3. Reimburse private employers for on-the-job training of hardcore unemployed | Federal funding for JOBS program increased from $90 million in FY68 to $169 million in FY71 |
| 4. Provide tax incentives for investment in rural and urban poverty areas | Such incentives provided in 1993 with establishment of Empowerment Zones |
| 5. Prevent unemployment discrimination by strengthening the EEOC | EEOC given new authority in 1972; funding increased from $6.8 million in FY68 to $63 million in FY75 |
| 6. Provide substantial federal aid to desegregated school districts | Emergency School Aid Act approved in 1972; Funding ranged from $228 million in FY73 to $274.7 million in FY77 |
| 7. Eliminate racial discrimination in northern and southern schools | Difficult to assess |
| 8. Extend early childhood education to every disadvantaged child | Funding increased from $333.9 million in FY69 to $403.9 million in FY75, but no change in percentage of eligible population participating |
| 9. Improve education for disadvantaged children through provision of year-round schooling | Funding increased from $1.1 billion in FY69 to $1.9 billion in FY76, but year-round schooling did not occur |
| 10. Provide greater funding for adult basic education | Funding increased from $255 million in FY69 to $932 million in FY77 |
| 11. Increase opportunities for parent and community participation in public schools | Difficult to assess |
| 12. Reorient vocational education toward work experience training | Funding increased from $260 million in FY69 to $844 million in FY77 |
| 13. Increase federal assistance to disadvantaged for higher education | Funding increased from $418 million in FY69 to $908 million in FY72 |
| 14. Revise state aid formulas for poor schools | Difficult to assess |
| 15. Establish uniform national welfare payments | Attempt passed House in 1970; unsuccessful in Senate; significant state disparities still exist |
| 16. Establish AFDC-UP nationally | Attempt passed House in 1970, but unsuccessful in Senate; approved in 1988 |
| 17. Federal payment of at least 90 percent of state welfare costs | No significant change; states continue to provide about as much assistance as federal government |
| 18. Provide more social services, including family planning, through neighborhood centers | Difficult to assess |
| 19. Increase incentives for those on welfare to seek training and employment | WIN program funded beginning in FY69 with $33 million; funding reached $370 million in FY77 |
| 20. Repeal 1967 AFDC freeze | AFDC freeze repealed in 1969 |

**Table 4.** (*continued*)

| Report Recommendation | Implementation Status |
|---|---|
| 21. Eliminate welfare residency requirements | Residency requirements declared unconstitutional in 1969 |
| 22. Enact federal fair housing law | Adopted in 1968 |
| 23. Reorient federal housing programs to place more assisted units outside of ghetto areas. | Repeated location of assisted housing in minority areas declared unconstitutional in 1969 |
| 24. Build six million low-moderate income housing units within five years | 1968 Housing Act authorized construction of six million within ten years; about 1,800,000 actually constructed within five years |
| 25. Expand rent supplement program | No meaningful change in funding until establishment of Section 8 program in 1974 |
| 26. Modify below-market interest rate program for nonprofit housing sponsors | Provided for by 1968 Housing Act |
| 27. Create low-income homeownership program | Provided for by 1968 Housing Act |
| 28. Provide interest rate subsidy for privately developed moderate-income housing | Provided for by 1968 Housing Act |
| 29. Expansion of public housing | Amount of new public housing built each year increased from eighty thousand in FY69 to one hundred thousand in FY71 |
| 30. Expansion of Model Cities | Federal funding almost doubled from $400 million in FY68 to $750 million in FY70 |
| 31. Expansion and reorientation of urban renewal | Funding increased from $589 million in FY69 to $1.2 billion in FY72; program required to provide low/moderate income housing |

*Source:* Author's compilation.

that the report's "greatest lasting impact" is the influence that it has had on the handling of disorders,[20] a conclusion shared by Patrick Gillham and Gary Marx (2018).

Improved training and tactics were not the only law enforcement recommendations from the report to have been implemented. Just as the Kerner Commission had hoped, minority representation on local police forces has increased. In 1967, a survey of twenty-eight cities conducted by the commission found that only about 6 percent of the police forces were black. However, in 2013, 27.3 percent were minority (Maciag 2015). In addition, several of the police chiefs of some of the nation's major cities (Denver, Dallas, Fort Worth, San Francisco, Philadelphia, and Charlotte) are now African American, some of the chiefs leading departments in cities (such as Dallas and Fort Worth) where not only is the city not predominantly black but also African Americans are not even its largest minority.

The report's emphasis on improving community relations and patrol strategies is also credited with helping establish the community policing strategy that later emerged (Page 2014). The report also led the Ford Foundation to create the Police Foundation, the nation's largest private agency dedicated exclusively to police work (Police Foundation n.d.).

Because of the role of the media in U.S. society, the report's media recommendations were also important. Jack Rosenthal in particular thinks that the report's media recommendations were among its most noteworthy.[21] Two of the more significant media recommenda-

20. Jay Kriegel, interview with Rick Loessberg, June 27, 2017.

21. Jack Rosenthal, interview with Rick Loessberg, May 8, 2015.

tions dealt with increasing both the number and the visibility of blacks in journalism and the media. For a population that has since become accustomed to regularly seeing African Americans as news anchors, major characters in television programs, and as individuals in commercials promoting everything from credit unions to cereal, it may be difficult to understand how all-white television and journalism once were and why these recommendations were made. In the 1960s, persons of color were seen on television only if they were a singer or a comedian on a variety show. The report itself states that fewer than 5 percent of U.S. journalists at the time were black, and it is thought that most of them worked for the black press.

For many African Americans, the report was instrumental in changing this almost-all-white world. Les Payne, who helped found the National Association of Black Journalists, says "the Kerner Report . . . was our affirmative action program. Before the Report came out, there were very few blacks in the media industry. So once that Report came out, major newspaper editors, for example, began to hire black journalists" (Mondale 2016).

Charlene Hunter-Gault similarly credits the report for opening doors and changing the rules. "I'm finding it difficult to remember a time," she said in 1988, "before there was a Kerner Commission so profoundly it has affected a generation of journalists and journalism." For many, she said, the report found its place in the libraries of black journalists, right alongside the copies of *The Elements of Style* and *Webster's Unabridged Dictionary* that many journalists kept back then. She said that she also owed her "very existence to the Kerner Commission Report" as she got her first job in television in 1968 immediately following a conference of editors and journalists that had been held to discuss how to implement the Kerner report's media recommendations (C-SPAN 1988).

As of 2014, 22.4 percent of television journalists were minority. For radio and newspaper journalists, the figures were at 13 percent each (White 2015). Although these figures are still not representative of the nation's total minority population and though the figures for minority producers and directors are even smaller, these changes are nonetheless significant: they now allow for a constant and frequent minority presence on our screens and in our newspapers.

## INFLUENCING FAIR HOUSING–HOUSING DESEGREGATION POLICY

The Kerner report's involvement in the evolution of fair housing and the desegregation of assisted housing is a prime example of how a presidential commission report can influence public policy. Before the report, no federal fair housing law was on the books, and earlier efforts to secure one had been unsuccessful. In both 1966 and 1967, congressional attempts had failed, and prospects did not appear much better in 1968 when three motions to end a filibuster on a proposed bill were also defeated. Then, on March 4, 1968, in the first cloture vote since the report's release three days earlier, enough support was finally secured to end the debate when three senators changed their previous positions. All said that the report had influenced their decision.[22] With the filibuster having been ended, the Senate soon passed what became the last of the great civil rights laws of the 1960s.

Senator Allen Ellender, who had opposed the measure, accused the commission of deliberately releasing its report when it did to coincide with the fair housing debate.[23] Senator Howard Cannon, who was one of the three who changed his vote on the motion to end the filibuster, explained his reason for doing so:

> At no point has institutional discrimination . . . been more clearly dramatized [than] by the report of the Presidential Commission on Civil Disorders, filed only a few days ago. Against a backdrop of the prospects of more rioting in American streets this summer, we have the challenge of improving the quality of life. Money and programs, in my view, are secondary to the far more urgent need to demonstrate in open and clear fashion that

22. 114 Cong. Rec. 4954–56 (1968).

23. Ibid., 4960.

> Americans have the will to meet these problems. The vote today offers an alternative to the present course of our national turmoil, and it is fitting that this course should be charted and set in the U.S. Senate.[24]

One year later, the report contributed to the nation's first successful public housing desegregation lawsuit (*Gautreaux v. Chicago Housing Authority*), which found that the Chicago Housing Authority's repeated and consistent placing of assisted housing in predominantly minority neighborhoods was in violation of federal law. In announcing this decision, the court, in its key summary judgment, ended with the following Kerner report citation and an echoing of the report's two societies warning: "On the basis of present trends of Negro residential concentration and of Negro migration into and White migration out of the central city, the President's Commission on Civil Disorders estimates that Chicago will become 50% Negro by 1984. By 1984 it may be too late to heal racial divisions."[25]

This landmark ruling, which, over the next twenty to thirty years, subsequently provided the legal basis for a series of other challenges across the country (see, for instance, *Jaimes v. Lucas Metropolitan Housing Authority, Walker v. Dallas Housing Authority, Ortero v. New York City Housing Authority, Mahaley v. Cuyahoga Metropolitan Housing Authority, Thompson v. HUD*), led to the end of high-rise public housing and the emergence of scatter-site housing.

The Kerner report continued to influence public housing policy in the 1990s when the Clinton administration sought to deal with the nation's supply of severely distressed public housing. Edward Blakely, who participated in this effort, said the report's discussion of segregation and its warning of two societies helped guide this work and culminated with the creation of the HOPE VI program, which demolished more than ninety-eight thousand severely distressed public housing units, many located in minority areas, and replaced them with about ninety-seven thousand mixed-income units in more dispersed locations (U.S. Department of Housing and Urban Development n.d.).[26]

In 2015, a major Supreme Court decision, *Texas Department of Housing and Community Affairs v. The Inclusive Communities Project*, demonstrated the report's continuing influence in housing discrimination and desegregation.[27] The Court not only ruled that the method that the state of Texas used to select low-income housing tax credit projects perpetuated segregation, but also established for the first time that, under the Fair Housing Act, intent does not need to be first proved to determine whether a specific action is discriminatory.

In its majority opinion, the Court cited the Kerner Commission's findings that "residential segregation and unequal housing and economic conditions in the inner cities" created the "significant, underlying causes of the social unrest" that the nation experienced in the 1960s, and that "both open and covert racial discrimination prevented black families from obtaining better housing and moving to integrated communities." It concluded with "the Fair Housing Act must play an important part in avoiding the Kerner Commission's grim prophecy that '[o]ur Nation is moving toward two societies, one black, one white—separate and unequal.'"[28] Mike Daniel, one of the attorneys representing the party that challenged the state's method, says that the legal team carefully assembled the material that was submitted to the Supreme Court and that it emphasized the Kerner report because it was "one of the two seminal works" on race in this country (the other being Gunnar Myrdal's *American Dilemma*) and because it so forcefully pointed out the consequences of continued housing segregation. He further notes that the report's influence was even more significant because it was

24. 114 Cong. Rec. 4960 (1968).

25. *Gautreaux v. Chicago Housing Authority*, 296 F. Supp. 907 (7th Cir. 1999).

26. Edward Blakely, email message to Rick Loessberg, July 20, 2017.

27. 576 U.S. ___ (2015), No. 13-1371.

28. Ibid.

"a government report" from "our government" that unhesitatingly described the conditions that existed for blacks.[29]

## THE REPORT AS SOCIOECONOMIC-RACIAL SHORTHAND

Of the many ways in which the report has been influential—as a platform, as a call to action, as a provider of information—the one which continues to endure (and which was totally unanticipated in 1968) is how it, and in particular, its two societies warning, have become such a part of our public consciousness and political vocabulary. Both are cited when studies chronicle the existence of residential segregation (Jargowsky 1997) or the economic disparity between whites and blacks (Goldsmith and Blakely 2010). They are also quickly invoked whenever there is a tragic police incident, whether it be Miami in 1980 (*Time* 1980), Los Angeles in 1992 (Steel 1992), Ferguson in 2014 (Cobb 2014), or Baltimore in 2015 (Western 2015). Peter Goldmark has remarked that he can go to an event almost anywhere and find people who recognize the two societies phrase (interview, see note 10).

In so doing, the report has, in short, become a reference point. It has the power to convert a statistic or a finding from a study into a distinct image. It has the power when a questionable police shooting occurs to quickly remind us that not as much progress has been made as thought (or hoped). It has, as John Wiley Price says, provided the country with a measuring stick that allows it to assess the distance it has covered, both statistically and rhetorically (interview, see note 8).

That the report continues to be frequently invoked after fifty years is remarkable. That it is often quoted verbatim is also extraordinary, especially given that it is not readily possible to remember any wording whatsoever from other historically significant commission reports, such as the Warren report or the 9/11 report.

A review of the *New York Times* illustrates how frequently the Kerner report has been cited. From 1968 to 2017, the commission and its report were cited a total of 349 times. In comparison, three other urban commissions (Katzernbach, Kaiser, and Douglas) from the same period were collectively mentioned only eighty-nine times. Moreover, the frequency with which the report has been cited is not just because of the intense attention it received on publication. Two-thirds (235) of the references to the report that the *Times* has made occurred in 1970 or later. The other three commissions and their reports have been cited only a total of twenty-three times over the same period, suggesting that the Kerner report, unlike the others, has developed and sustained a significant presence over several generations.

## CONCLUSION

The Kerner report dramatically called America's attention to the grave disparity between blacks and whites and provided a comprehensive agenda for eliminating this disparity. Although the report did not lead to another Great Society or to "unprecedented levels of funding" as the commission had hoped, a surprising number of the recommendations were implemented; the report also provided the foundation for much of the diversity in today's media, many law enforcement principles, and many housing policy decisions. In so doing, America has become more inclusive, additional violence has been prevented, and new opportunities for where people can live, go to school, and work have been created. Although this influence has not been enough to eliminate the two societies that the report warned about, there has nonetheless been, by many accounts, important progress over the last fifty years.

The report's greatest legacy, though, may now be how it has endured and how it continues to influence and educate. Several generations have come of age since the report was written; yet, it is still quoted and remembered while other reports from the same era have been forgotten. As Gary Marx notes, "what the Kerner Report really did is . . . to document the gap between the values we hold and the realities" that exist and to demonstrate "that we are not living up to the American ideal" (interview, see note 9). This ability to remind America and to constantly measure the current situation,

29. Mike Daniel, interview with Rick Loessberg, November 30, 2017.

whatever it may be, after fifty years is critical, for as America's past has shown, the journey to equality is a long one.

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