

# What is Environmental Justice and Why Economists Should Care?

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# Introduction: *History of EJ Movement*

- In 1978, 31,000 gallons of Polychlorinated Biphenyl (PCB) was illegally dumped on behalf of the Ward Transformer Company of Raleigh along 210 miles of roads in 14 counties in North Carolina.



[http://www.golder.com/en/modules.php?name=Projects&sp\\_id=70&sector\\_id=298](http://www.golder.com/en/modules.php?name=Projects&sp_id=70&sector_id=298)

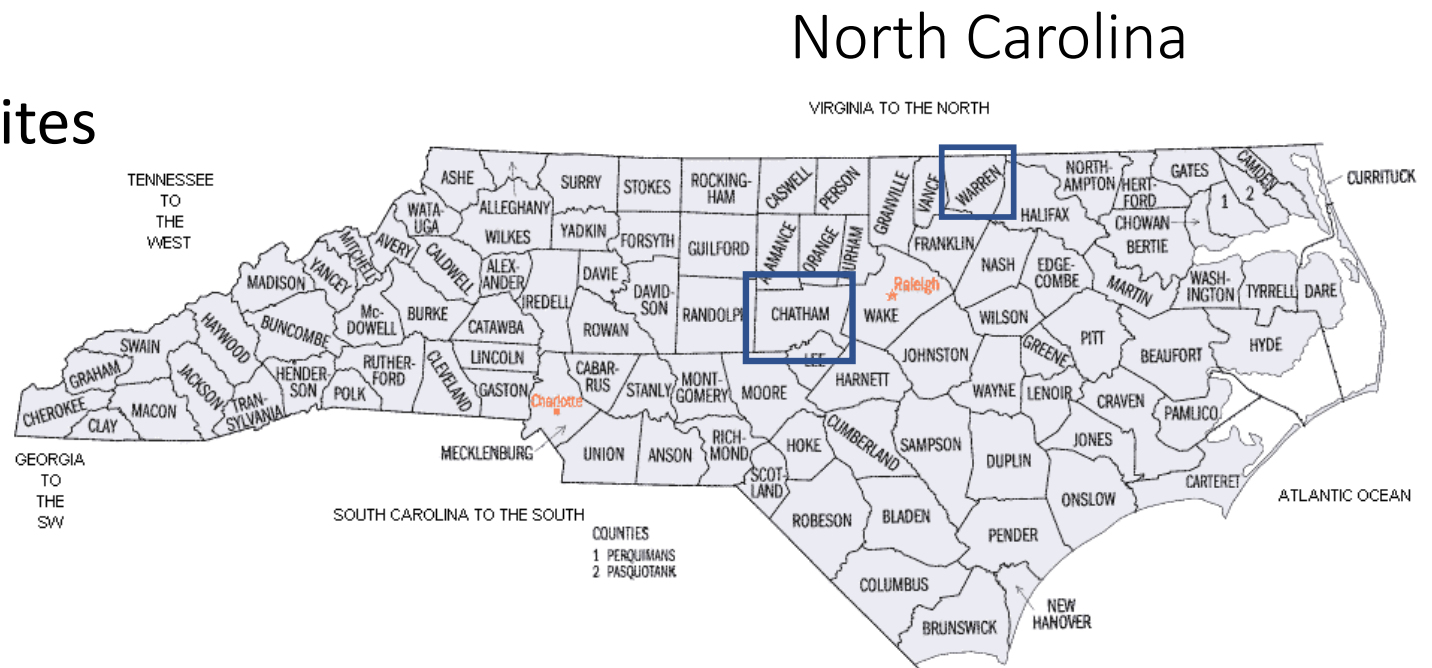
- PCB Exposure: skin conditions, liver damage, lowered immune system response, cognitive failure in children.

# History: *Ward Transformer*

- The state developed a plan to collect PCB-contaminated soil for landfilling.
- Landfill Requirements:
  - bound by counties where spill occurred
  - surrounded by at least 16 acres of land
  - isolated from highly populated areas

# History: *Ward Transformer*

Two alternative sites identified:



1. Publicly owned landfill in Chatham County
2. Recently foreclosed private property in Warren County

# History: *Ward Transformer*

## Chatham Co. Site:

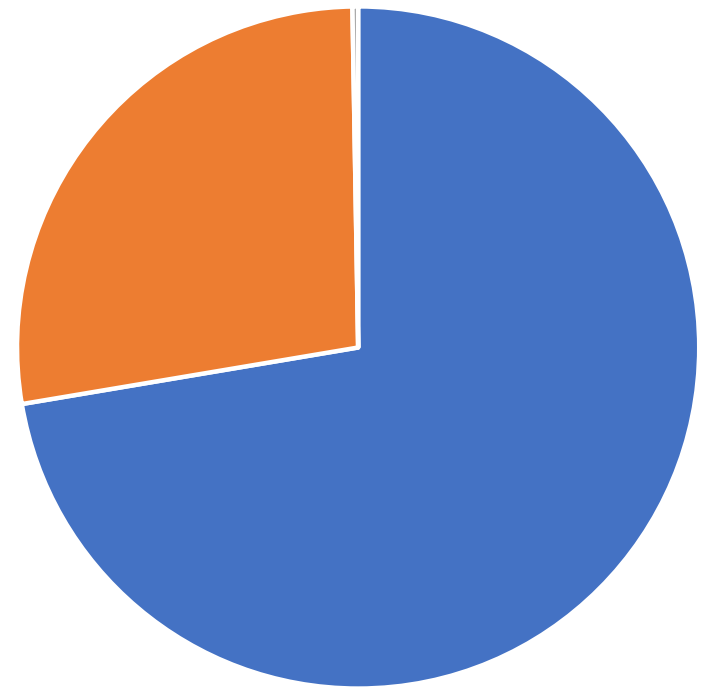
- clay lined
- publicly owned

# History: *Ward Transformer*

Chatham County (1980)

Chatham Co. Site:

- clay lined
- publicly owned



■ White ■ Black ■ Other

# History: *Ward Transformer*

Warren Co. Site (Shocco, NC):

- private land
- shallow water table (5-10 ft. below surface)
- nearby residents relied on local wells for water

# History: *Ward Transformer*



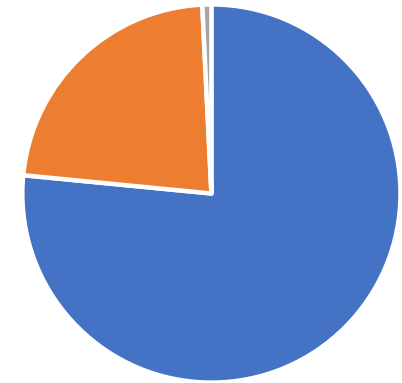
## Warren Co. Site (Shocco, NC):

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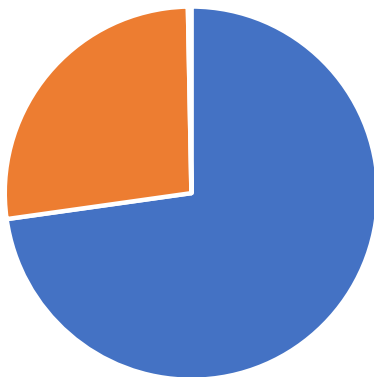
# Race in North Carolina (1980)

North Carolina



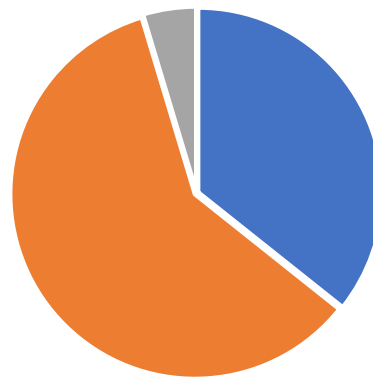
■ White ■ Black ■ Other

Chatham



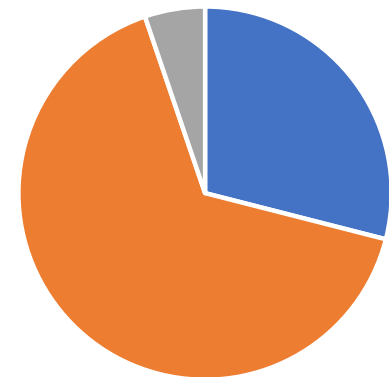
■ White ■ Black ■ Other

Warren



■ White ■ Black ■ Other

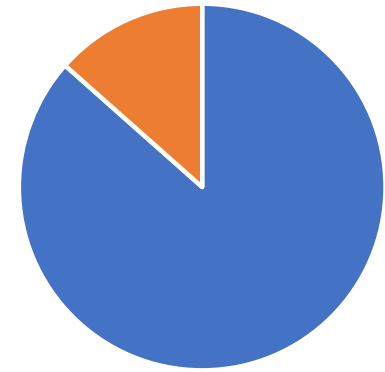
Shocco



■ White ■ Black ■ Other

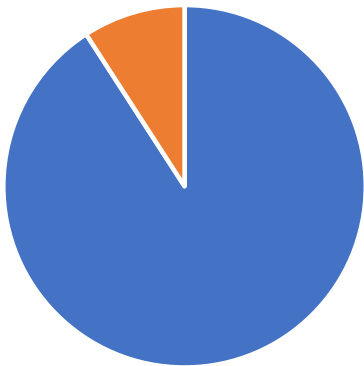
# Poverty in North Carolina (1980)

North Carolina



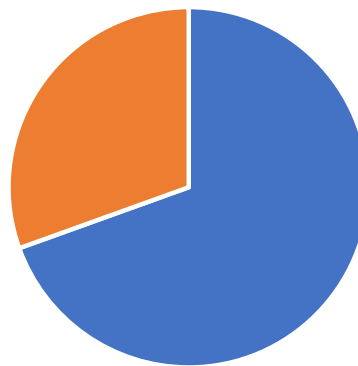
■ Non-Poverty ■ Poverty

Chatham



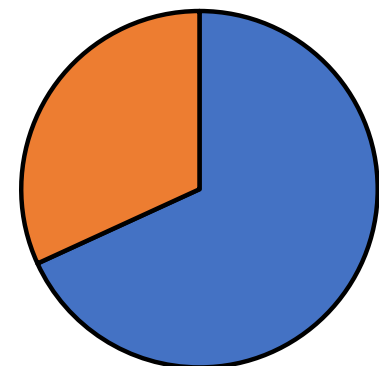
■ Non-Poverty ■ Poverty

Warren



■ Non-Poverty ■ Poverty

Shocco



■ Non-Poverty ■ Poverty

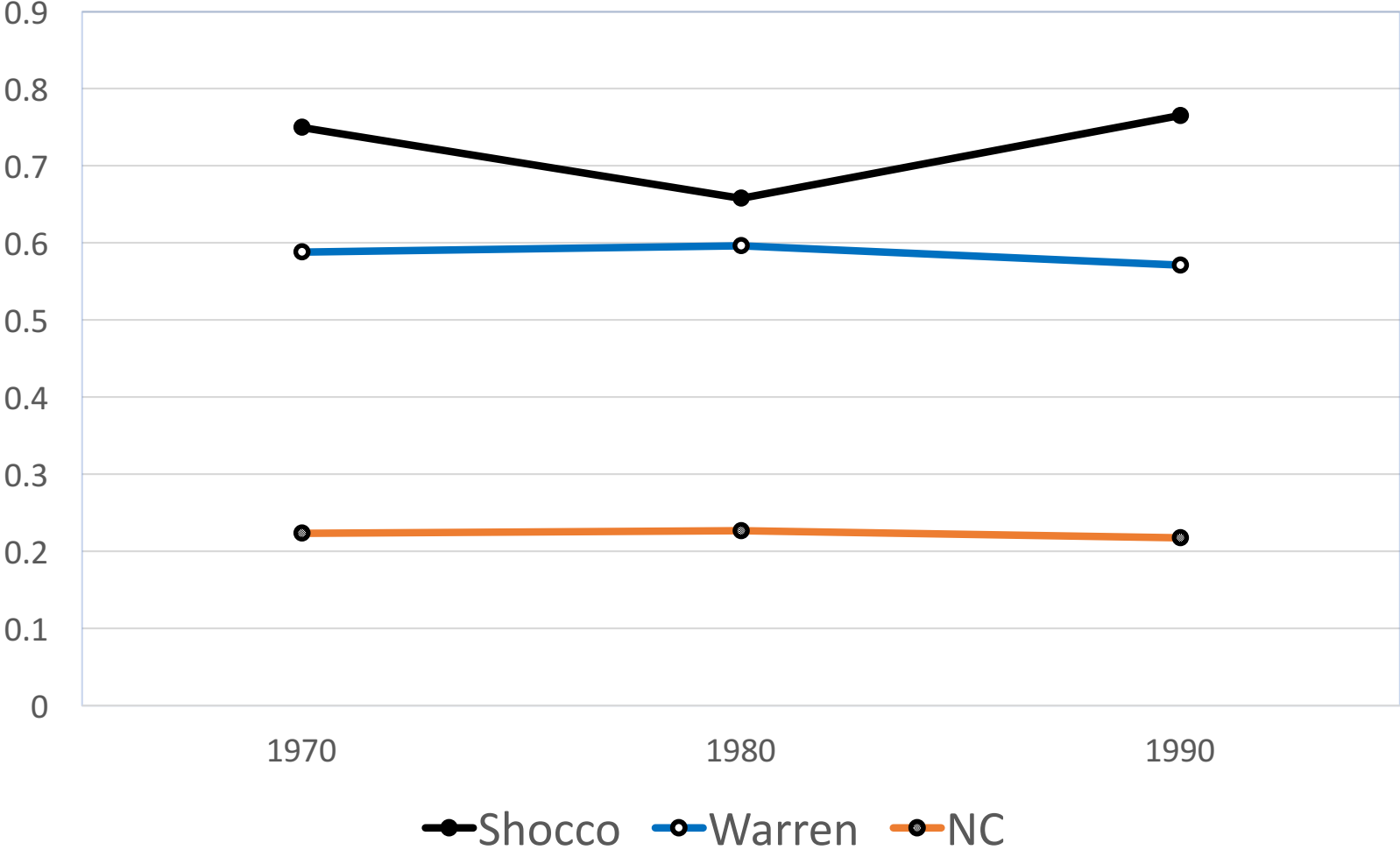
# History: *Warren County, NC*

- Warren Co. site chosen.
- Residents protested siting of PCB landfill in 1982.
- Drew widespread support from civil rights groups and gained national media attention.
- Protests were among first to raise awareness about environmental concerns of minorities. Widely acknowledged as birth of environmental justice movement.



<https://www.citylab.com/equity/2015/11/how-the-collapse-of-soul-city-fired-up-the-environmental-justice-movement/415530/>

# Population Percentage Black



# What is Environmental (In)Justice?

Minorities, people of color, and low-income households bear a disproportionate amount of burden or risk from environmental pollution.

# Environmental Justice: *Definition*

The fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

Fair treatment means that no population, due to policy or economic disempowerment, is forced to bear a disproportionate share of the negative human health or environmental impacts of pollution or environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies.

**- U.S. Environmental Protection Agency**

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Procedural  
Justice

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Distributive  
Justice

- U.S. Environmental Protection Agency

# Environmental Justice: *Definition*

“racial discrimination in environmental policy making, the enforcement of regulations and laws, the deliberate targeting of communities of color for toxic waste facilities, the official sanctioning of the life-threatening presence of poisons and pollutants in our communities, and the history of excluding people of color from leadership of the ecology movements.”

**Benjamin Chavis**  
**Executive Director**  
**United Church of Christ –Commission for Racial Justice**

Other Definitions

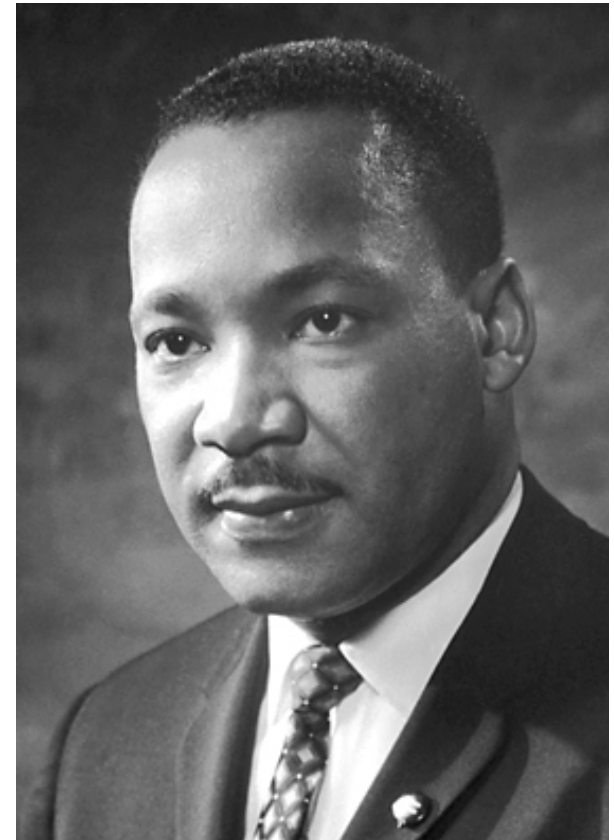


# History: *EJ Movement*

Along with the protests in Warren Co., the environmental justice movement was built upon many other movements and institutions.

# History: *Civil Rights Movement*

- Experience with civil disobedience as a way to push for political change.
- Martin Luther King Jr. was killed in 1968 while in Memphis to march with striking sanitation workers.



[https://en.wikipedia.org/wiki/Martin\\_Luther\\_King\\_Jr.](https://en.wikipedia.org/wiki/Martin_Luther_King_Jr.)

# History: *Anti-Toxics Movement*

- Environmental justice more focused on toxics (air, water) than on other criteria pollutants and greenhouse gases, ecosystem preservation, etc.
- Rachel Carson, *Silent Spring* (1962) focused attention on DDT and other pesticides.



<http://www.genatural.com/about/celebrating-rachel-carson/>

# History: *Anti-Toxics Movement*

- Love Canal disaster in New York
- “Valley of the Drums” in Bullitt, Kentucky



[https://en.wikipedia.org/wiki/Valley\\_of\\_the\\_Drums](https://en.wikipedia.org/wiki/Valley_of_the_Drums)



[https://en.wikipedia.org/wiki/Love\\_Canal](https://en.wikipedia.org/wiki/Love_Canal)

Movement later switched to a focus on information provision (Toxics Release Inventory and “Right to Know” Act of 1986).

# History: *Mainstream Environmentalism*

## The “Group of Ten”:

- Audubon Society
- National Wildlife Federation
- Environmental Defense Fund
- Friends of the Earth
- Izaak Walton League
- National Parks and Conservation Association
- National Resource Defense Council
- Sierra Club
- Sierra Club Legal Defense Fund
- The Wilderness Society

# History: *Mainstream Environmentalism*

- Divergences between traditional environmental movement and EJ movement:
  - **Race:** white vs. minority
  - **Scope:** natural landscape/endangered species vs. social/urban landscape
  - **Purpose:** preservation vs. equity
- Within the mainstream movement, some outright aversion to including social equity with environmentalism.

# History: *Early Research*

- US GAO. 1983. *Siting of Hazardous Waste Landfills and Their Correlation with Racial and Economic Status of Surrounding Communities*. Washington, DC: US Gov. Printing Office.
- Bullard, RD, ed (1983). *Confronting Environmental Racism: Voices from the Grassroots*. Boston: South End Press.
- Chavis BF, Lee C. 1987. *Toxic Wastes and Race in the United States*. New York: United Church Christ.
- Bullard, RD, ed (2000a). [1990]. *Dumping in Dixie: Race, Class, and Environmental Quality*, 3rd ed. Boulder, CO: Westview Press.

# History: *Government Recognition*

- 1992: EPA report, "Environmental Equity: Reducing Risks for all Communities"



- Creation of the EPA Office of Environmental Justice



- 1994: Executive Order 12898 (Clinton)

*"Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations"*



# History: *Government Recognition*



<https://www.nrdc.org/experts/albert-huang/20th-anniversary-president-clintons-executive-order-12898-environmental-justice>

# Executive Order 12898

“To the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations...”

# Exposure

- Early empirical work in EJ focused on documenting disproportionate exposure.
- Are EJ claims based on *race* or *class* ?
- Evidence has generally provided strong support for disproportionate exposure to many nuisances.

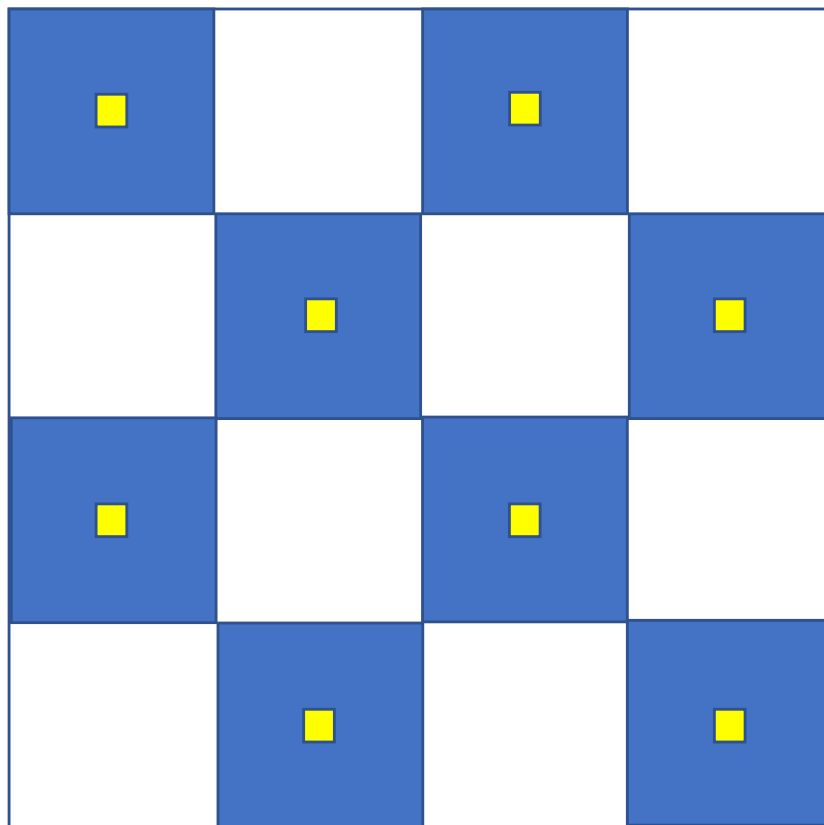
# Exposure: *Issues*

When discrepancies have arisen, they can usually be attributed to how we define exposure.

- Spatial:
  - Ecological Fallacy
  - Unit Hazard Coincidence
- Proximity v. Toxicity

# Exposure: *Ecological Fallacy*

Ecological Fallacy: Incorrectly draw conclusions about individual-level behavior from group-level behavior.



Using small geography,  
pollution perfectly  
correlated with race.

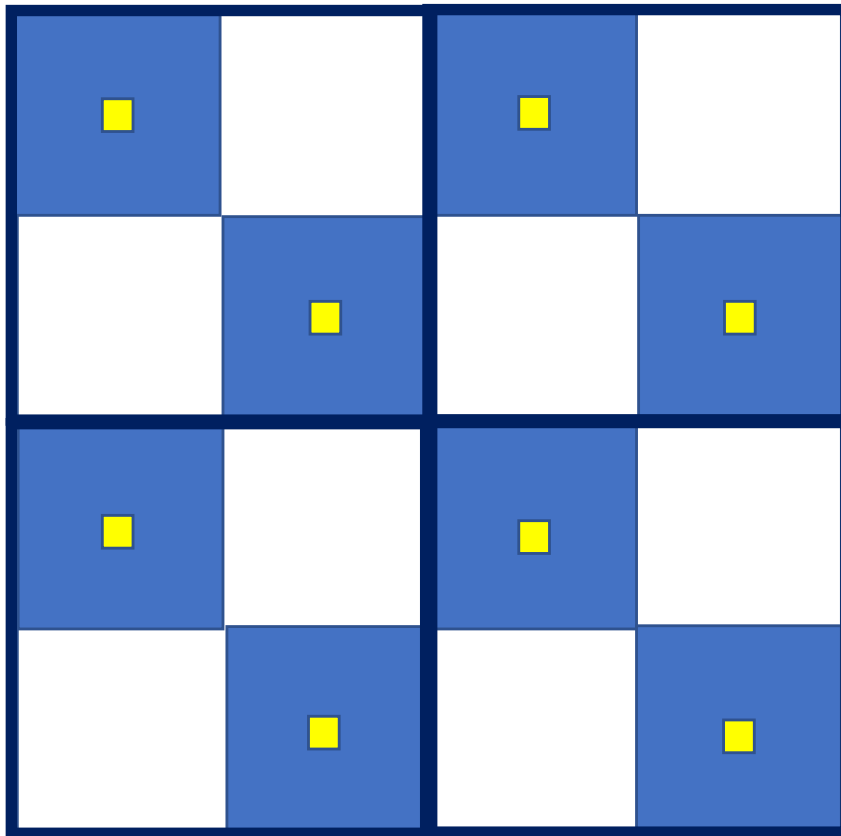


= minority neighborhood



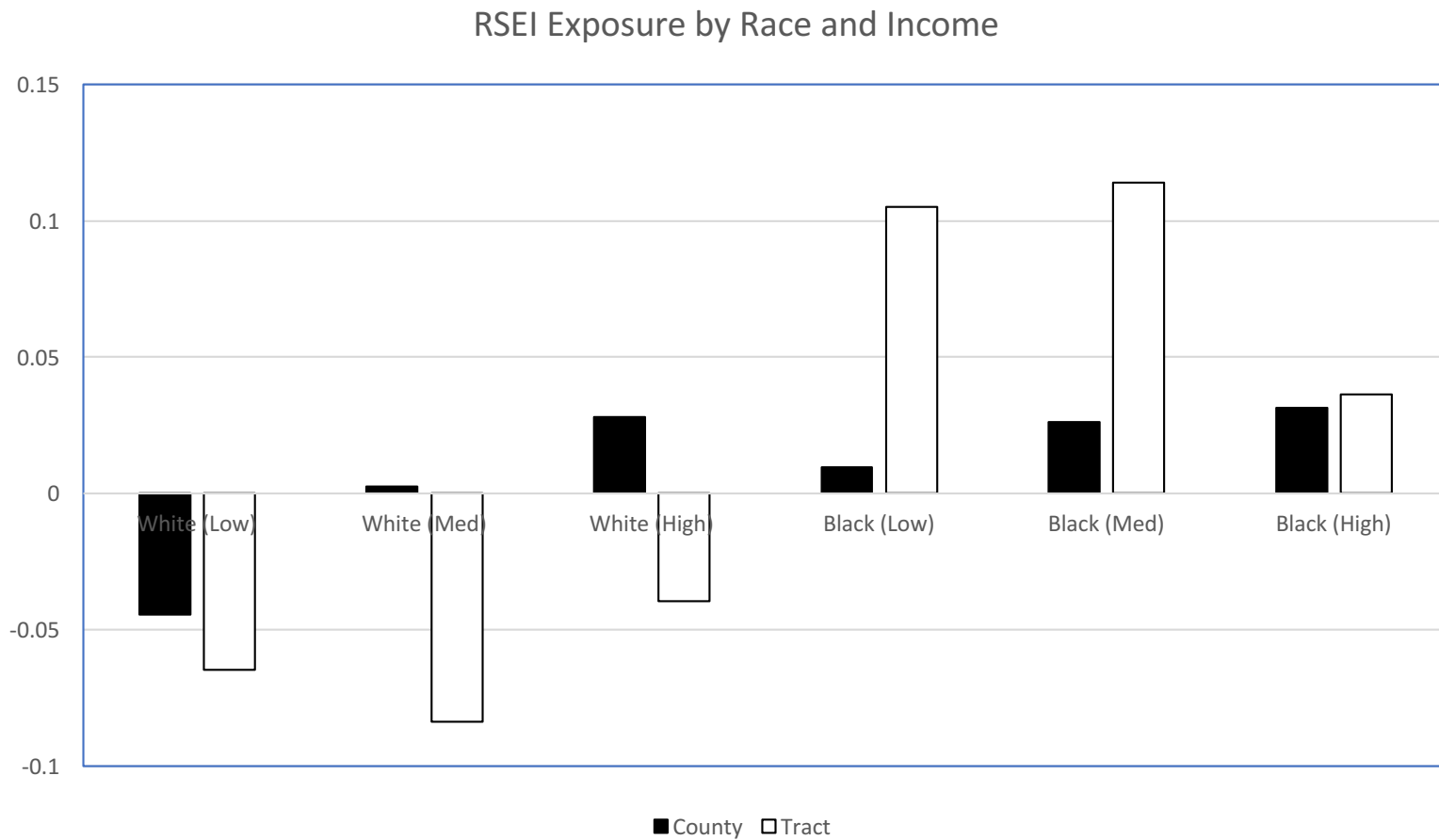
= pollution source

# Exposure: *Ecological Fallacy*



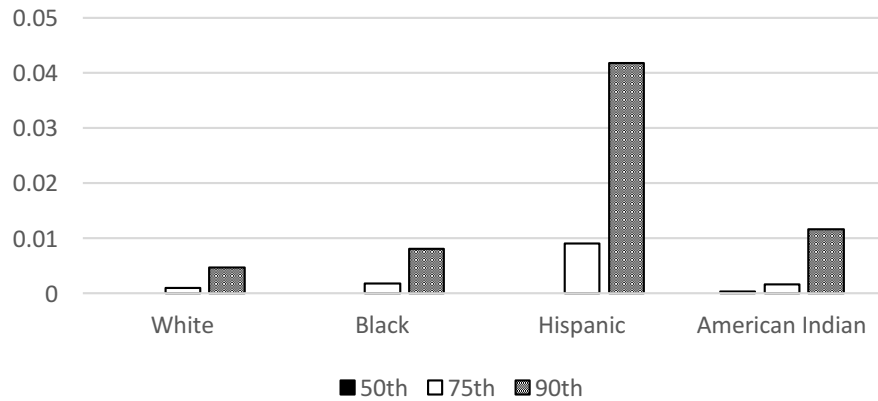
Using the larger geographical definition, there is no correlation between race and pollution.

# Exposure: *Ecological Fallacy*

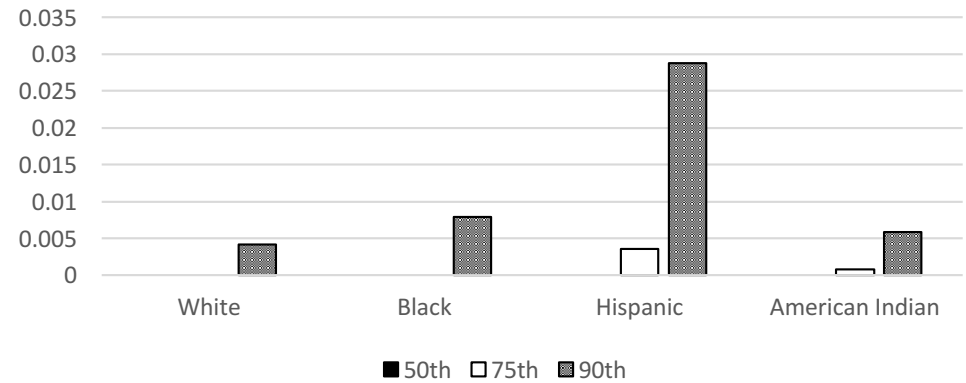


# Exposure: *Ecological Fallacy*

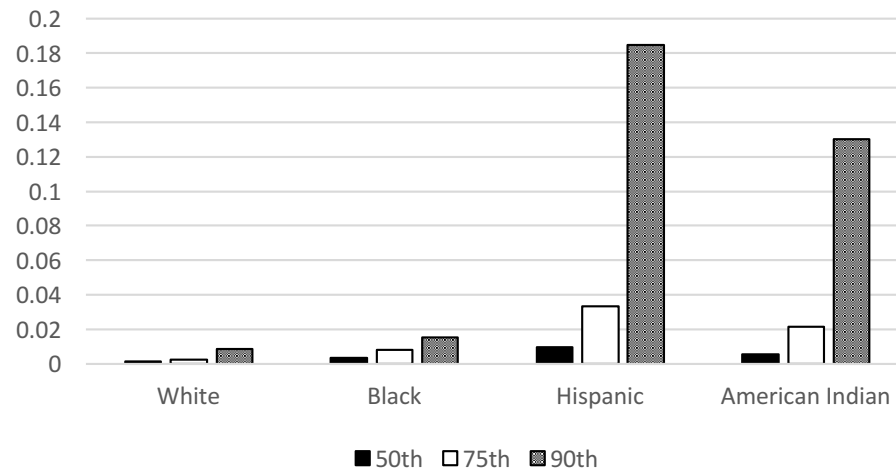
Distribution of Hogs Per Capita by Race  
Tract



Distribution of Hogs Per Capita by Race  
Block Group



Distribution of Hogs Per Capita by Race  
County





# Mechanisms

Most debate in environmental justice field is over mechanisms behind disproportionate exposure:

- Racial discrimination
- Residential sorting
- Siting
- Institutions (government, judicial)

Mechanism → Policy Implications

# Mechanisms: *Racial Discrimination*

Not always explicit or current, but may have long-lasting implications...



Aerial view of [Levittown, Pennsylvania](https://en.wikipedia.org/wiki/Levittown) circa 1959. <https://en.wikipedia.org/wiki/Levittown>.

# Mechanisms: *Sorting*

When economists talk about residential sorting, they are usually talking about Tiebout:

*Tiebout, C. M. (1956). "A Pure Theory of Local Expenditures," Journal of Political Economy.*

People move based on their preferences. This reveals preferences for local public goods (i.e., “voting with feet”).

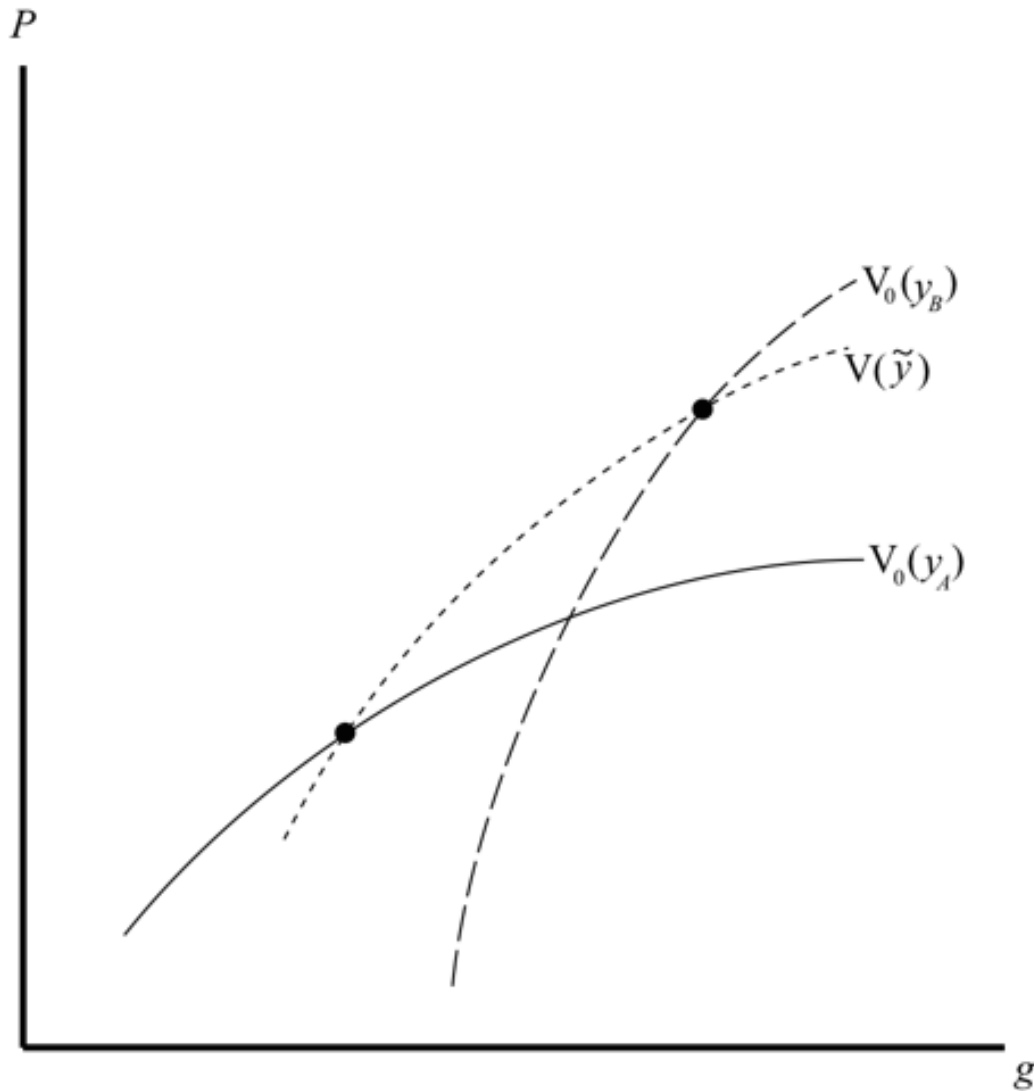
- “White Flight”
- “Minority Move-in”

# Formal Model of Tiebout Sorting

## Preferences:

- Household gets utility from
  - environmental quality ( $g$ )
  - consumption of all other goods it can get with leftover income after paying for a house ( $y-p$ ).
- Household preferences differ by income.

# “Single Crossing” Property

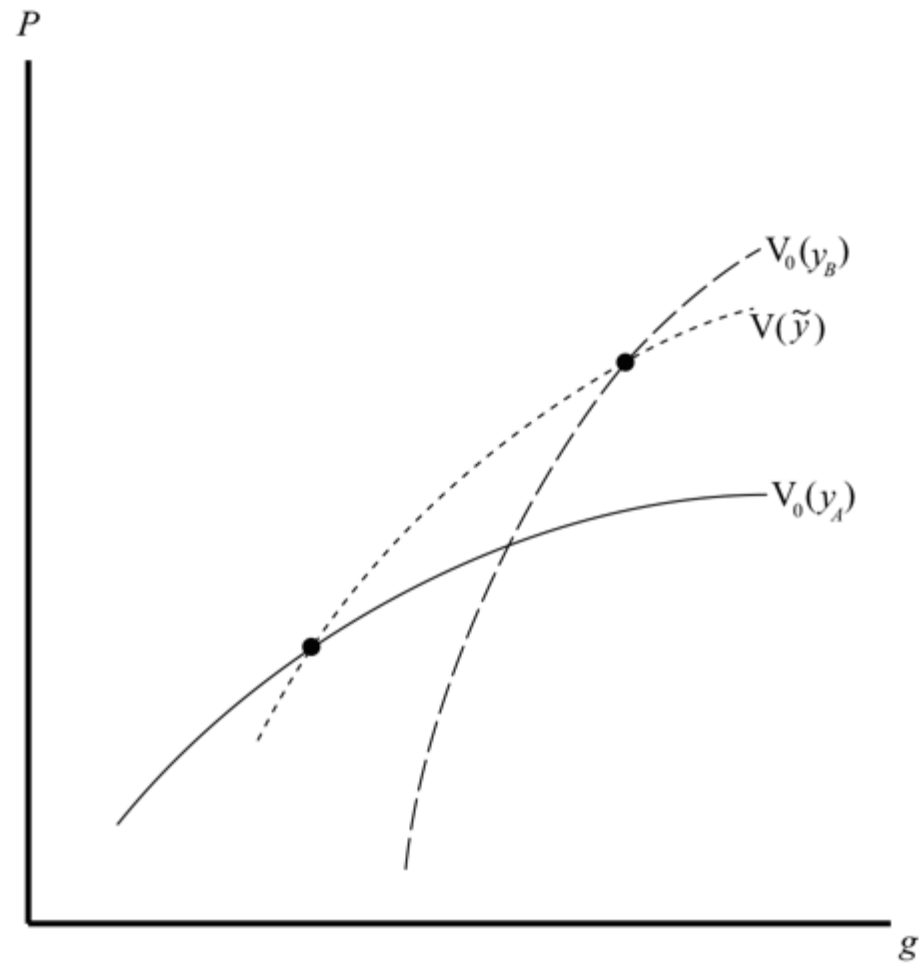


As income increases ( $y_A$  to  $y_B$ ), indifference curves become steeper.

Families of curves only cross once.

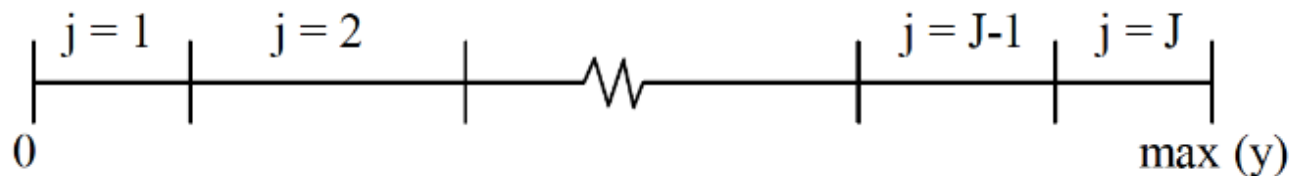
# “Single Crossing” Property

For each pair of neighboring communities, there will be a set of “boundary” households (defined by income  $\tilde{y}$ ) that are indifferent between those communities.



# Formal Model of Sorting

- This yields perfect income stratification across communities.



- Model can be expanded to allow for imperfect stratification by allowing individuals to differ in intensity of preference for public goods.

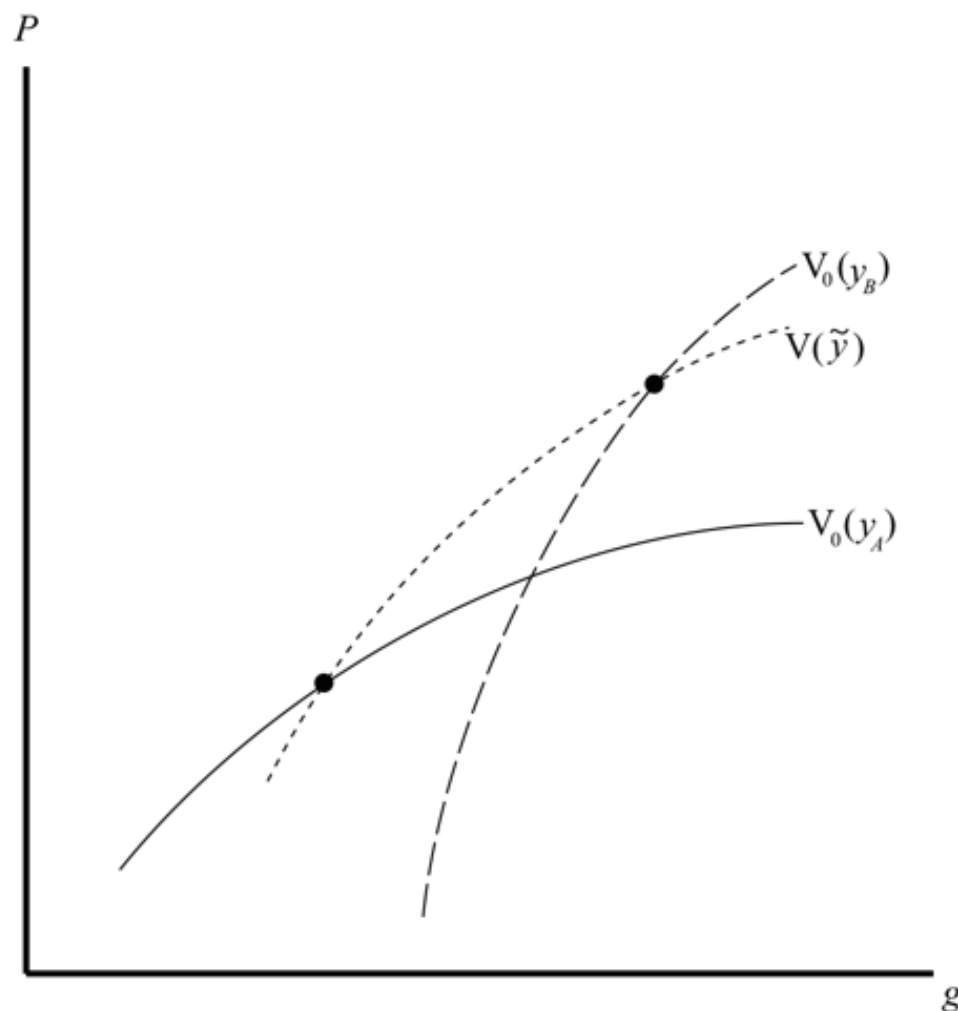
# Formal Model of Tiebout Sorting

- Suppose:
  - the two locations 1 and 2 are evenly sized
  - two types of households (A & B)
  - minority of households are type A (poverty)
  - majority of households are type B (non-poverty)
- In order for the land market to clear, majority type B households must be content to live in both locations.
- In order for this to be true, low environmental quality location has to be cheaper.



# Formal Model of Tiebout Sorting

- The price gap between locations 1 and 2 offsets the difference in environmental quality for type B households, making them indifferent.
- It is therefore the case that low-income group will only live in the low environmental quality location.



# Gentrification

“one by one, many of the working class quarters of London have been invaded by the middle classes – upper and lower. Shabby, modest mews and cottages ... have been taken over, when their leases have expired, and have become elegant, expensive residences... Once this process of ‘gentrification’ starts in a district, it goes on rapidly until all or most of the original working class occupiers are displaced, and the whole social character of the district is changed.”

- Glass R, 1964, Aspects of Change, in Centre for Urban Studies (ed) London: Aspects of Change. (MacGibbon and Kee, London).

# Environmental Gentrification

“Hallmarks” of Environmental Gentrification (Banzhaf and McCormick 2007):

Environmental improvements followed by...

# Environmental Gentrification

- (1) Rising property values and rental costs.
- (2) New construction / renovation; conversion from rental to owner-occupied property.
- (3) Renovation of historic buildings and passage of historic preservation ordinances.
- (4) Population turnover towards higher SES.
- (5) Endogenous change in mix of public goods provided; new “aesthetic” (e.g., new businesses, etc.), affects endogenous amenities (e.g., crime rate, school quality).

# Environmental Gentrification

<https://features.marketplace.org/yorkandfig/>

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[www.shutterstock.com](http://www.shutterstock.com) · 412167445

<https://www.shutterstock.com/image-vector/set-hipster-men-on-white-background-412167445>

# Environmental Gentrification: *Displacement*

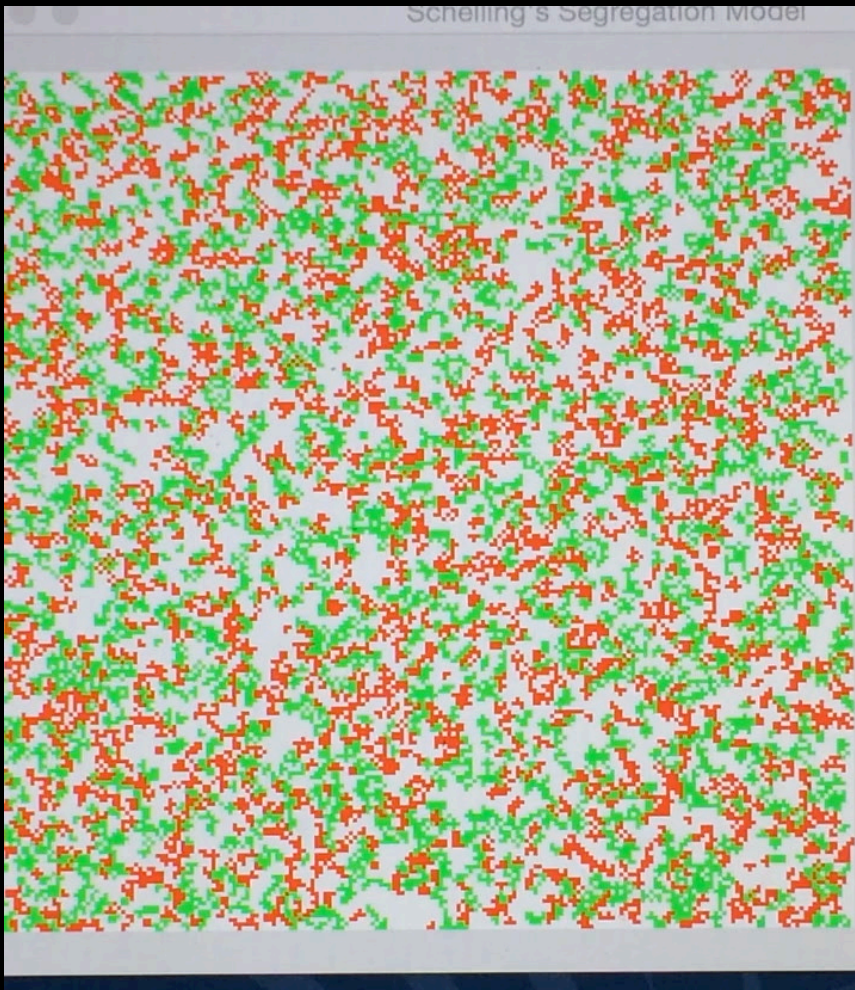
- Rising prices mean that poor residents will choose to exit for other neighborhoods that had previously been less desirable.
- Poor residents might be made worse off by an environmental improvement!

# Feedback Effects: *Racial Preferences*

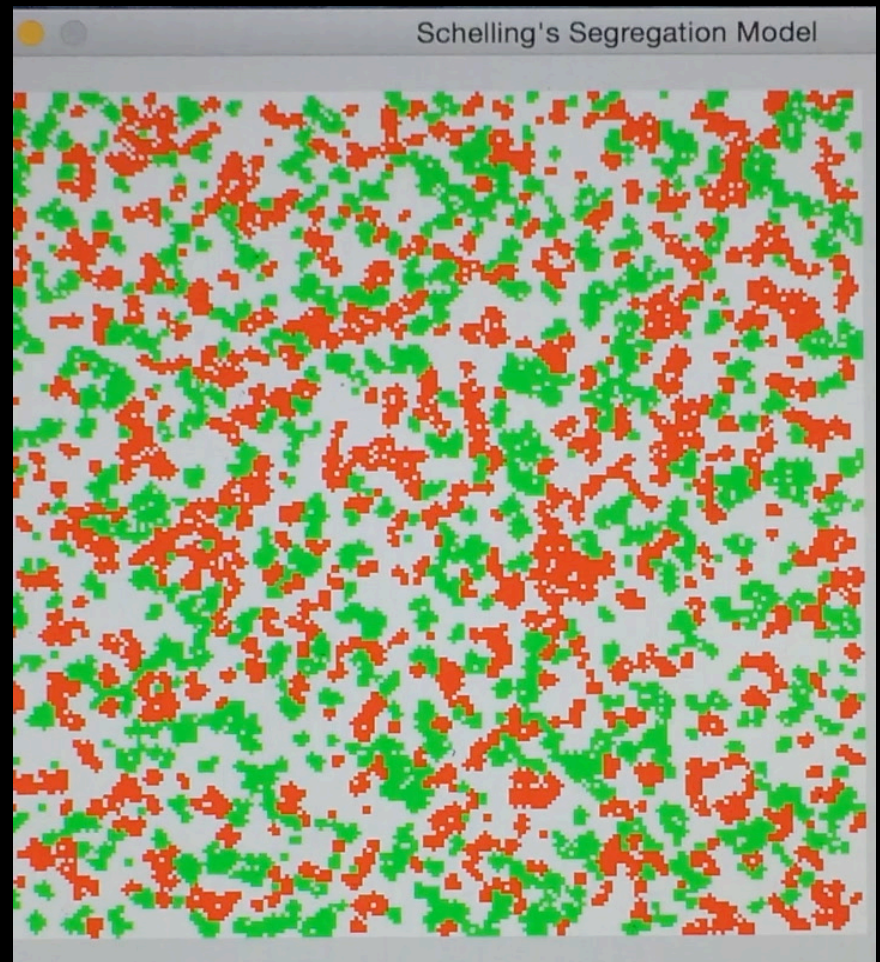
- If homebuyers have preferences for the living with neighbors of the same race, white neighborhoods will become increasingly more valuable to white buyers.
- If race is correlated with income, this increases price disparities and deepens pollution inequity.

# Thomas Schelling Mac App

N=2



N=4





# Feedback Effects: *Retail*

- Business patterns adjust to reflect the incomes and preferences of those living in each community.
- This may increase the cost of living in cleaner communities, further enhancing income (and racial) divides.



# Environmental Gentrification

- LA Family and Neighborhood Survey (LA FANS).
- Probit estimation of the likelihood of a move.
- Gentrification = 1 if housing appreciation rate (2000→2006) in census tract > 10%.

Variable	Estimate
Gentrification	-0.1763*
Renter	0.6071***
<b>Gentrification x Renter</b>	<b>0.3652***</b>
Hispanic	0.0216
Black	0.1958**
Asian	-0.1764
Age	-0.0196***
Kids	0.2338***
Education	0.0115
Income	-0.0123**
Constant	-0.1363

# Environmental Gentrification

...what happens to those affected by gentrification when they move?

	House Price	Air Pollution	School Quality
Gentrification	0.1338*	-2.2931***	0.8586***
Renter	0.05286	1.0973**	-1.4719*
<b>Renter x Gentrification</b>	<b>-0.3304**</b>	<b>1.8927**</b>	<b>-3.3894**</b>

Qiang, Timmins & Wang (2017). "The Link Between Gentrification and Displacement and the Effects of Displacement on Residents in Los Angeles County." SUR system of equations includes controls for race, age, education, and income.

# Mechanisms: *Siting*

Recall the *Coase Theorem*:

*Under certain assumptions (no transaction costs and well-defined property rights), the most efficient or optimal level of an economic activity will occur, because negotiation and market transactions will ensure the optimal allocation and use of property in a free market.*

# Siting & Coase Theorem

- Residents should be compensated for the risks they bear.
- A polluting firm will locate where it does less damage in order to minimize the compensation it must pay.
- Factors influencing potential compensation
  - number of people affected
  - property values
  - residents' willingness to pay for environmental quality

# Siting & Coase Theorem

Low income  $\rightarrow$  High  $MU_i$   $\rightarrow$  Low WTP to avoid pollution.

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Coase: It is efficient to locate polluting firms in poor neighborhoods.

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Tiebout: Poor people will choose to move into these neighborhoods after siting.



# Siting & Coase Theorem

Low income  $\rightarrow$  High  $MU_1$   $\rightarrow$  Low WTP to avoid pollution.

Coase: It is efficient to locate polluting firms in poor neighborhoods.

Tiebout: Poor people will choose to move into these neighborhoods after siting.

**Environmental injustice is really just a reflection of income inequality.**

# Siting & Coase Theorem

There may be other reasons for disproportionate siting that are not so efficient...

# Siting & Collective Action

In 1984, the CA Waste Management Board commissioned Cerrell Associates, Inc. to identify communities that would be less likely to resist LULU siting.

# The Cerrell Report (1984)

“The formidable obstacle to waste-to-energy facilities is public opposition. A great deal of time, resources, and planning could be saved and political problems avoided, if people who are resentful... could be identified before selecting a site. If this information was available, facilities could be placed in an area...where people do not find them so offensive”

*Cerrell Assoc., Inc. 1984. “Political difficulties facing waste-to-energy conversion plant siting.” Rep. prepared for Calif. Waste Management Board, Los Angeles, CA.*

# Cerrell Report: *Community Profiles*

Most likely to oppose siting:

- Northeast, western regions
- Urban
- Commercial and residential
- Young or middle-aged
- College-educated
- Liberal/Democrat (welfare-state orientation)
- Middle and high income
- History of environmental activism

# Cerrell Report: *Community Profiles*

Least likely to oppose siting:

- Midwest
- Rural
- Heavy and light industrial
- Those living within 5 miles of a site
- Long-time residents (20+ years)
- High school education or less
- Conservative/Republican (free markets orientation)
- Low income

Kettleman City

North River

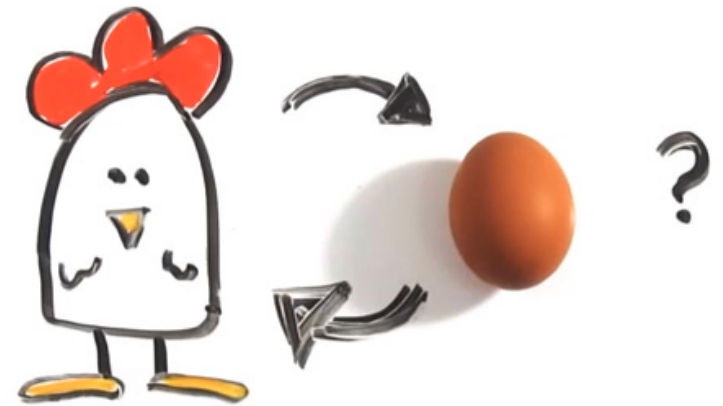
# Information and Coasian Bargaining Shale Gas Leases in Tarrant Co., Texas

	Black	Hispanic	Income	Hispanic x % Poor English
Royalty	-	+		-
<i>Term Length</i>	+			+
Insurance Indemnity				
Vertical Pugh	-			-
Force Majeure	-		+	
Groundwater Protection	-	+		-
Noise Restriction				-
Traffic Restriction	-			-
Setback Restriction	-			-
<i>Subsurface Easement</i>	+			+
Compression Station		+	-	-
Environment Clause	-			-

Timmins and Vissing (2017). "Environmental Justice and Coasian Bargaining: The role of race and income in lease negotiations for shale gas."

# Causation vs. Correlation

- Correlations identifying the **existence** of environmental injustices do not distinguish between:
  - *Did polluting firms move into poor/minority neighborhoods?*
  - *Did poor/minority groups move to polluted neighborhoods where land is cheap?*
- Economics tools may be well-suited to identifying causal effects.



[http://66.media.tumblr.com/ad77e66cfa84c48c04a58b832909612f/tumblr\\_inline\\_o3skq0BY8b1rnb1ig\\_500.jpg](http://66.media.tumblr.com/ad77e66cfa84c48c04a58b832909612f/tumblr_inline_o3skq0BY8b1rnb1ig_500.jpg)



# Siting v. Sorting

Been (1994), Been and Gupta (1997):

- Use demographics at time of siting versus changing demographics post-siting.
- Evaluate sites from GAO (1983) and Bullard (1984)

Depro, Timmins, and O'Neil (2015):

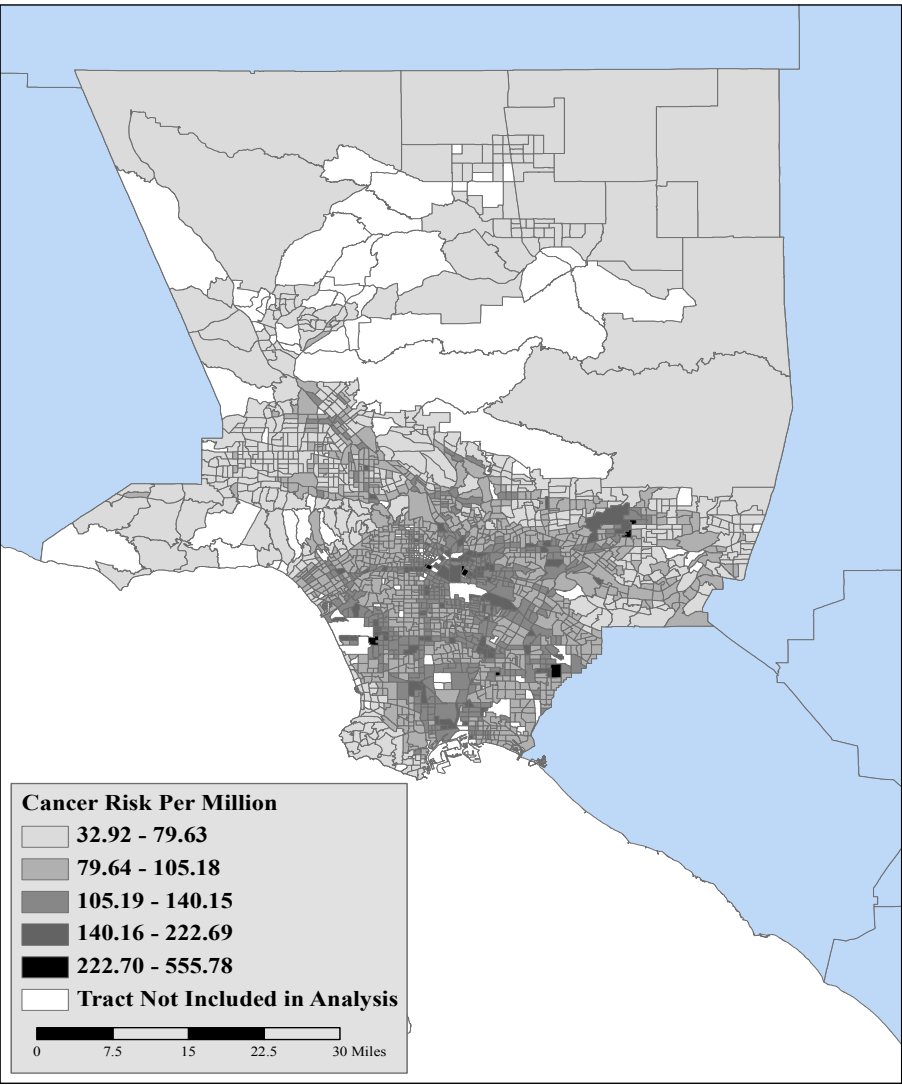
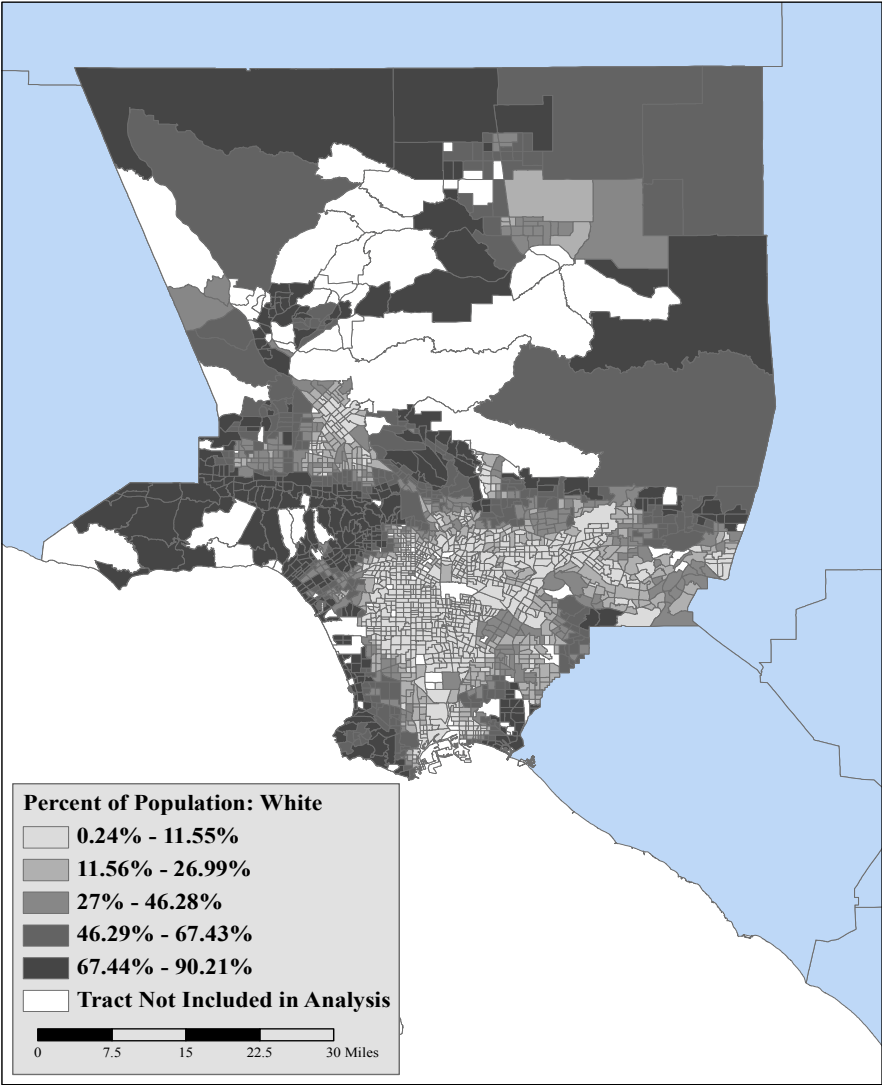
- Structural model of sorting decision.
- High correlation between air toxics and Hispanic goes away if Hispanics are given whites' MWTP to avoid air toxics between 2000 – 2010.

## **Correlation Between Race and NATA Cancer Risk (Year 2000)**

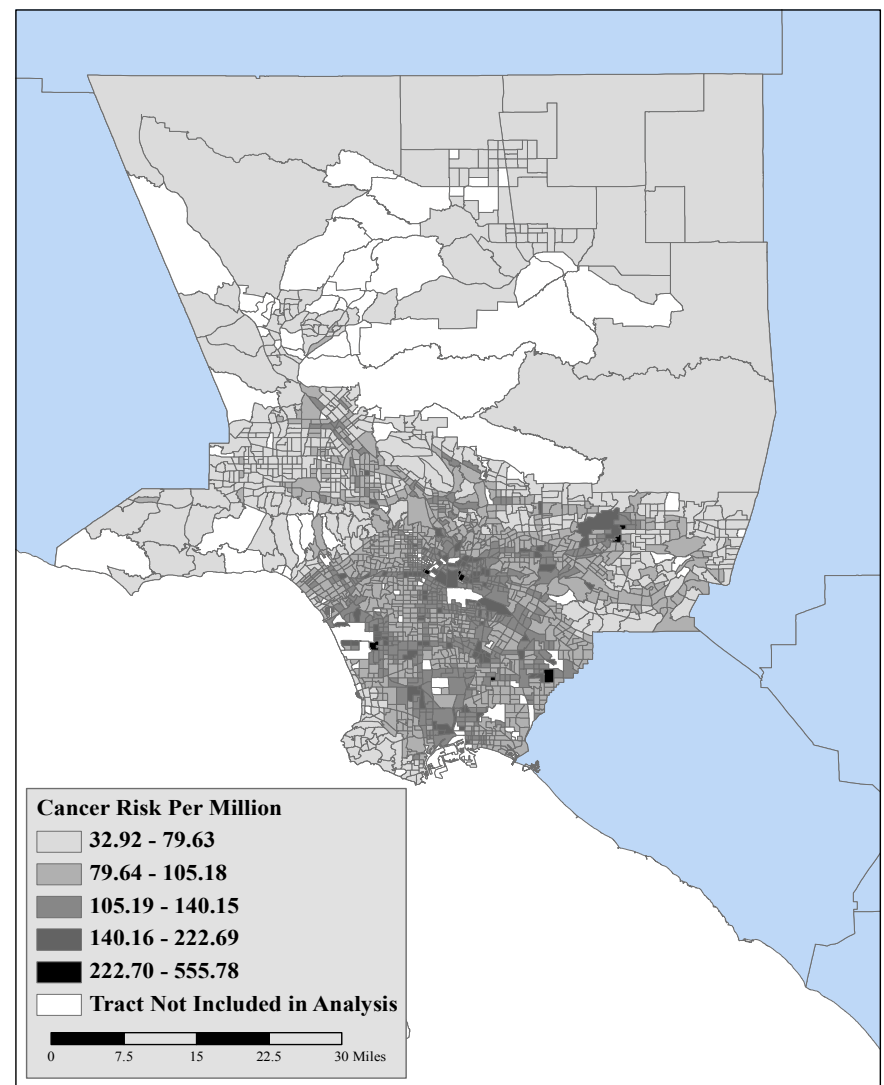
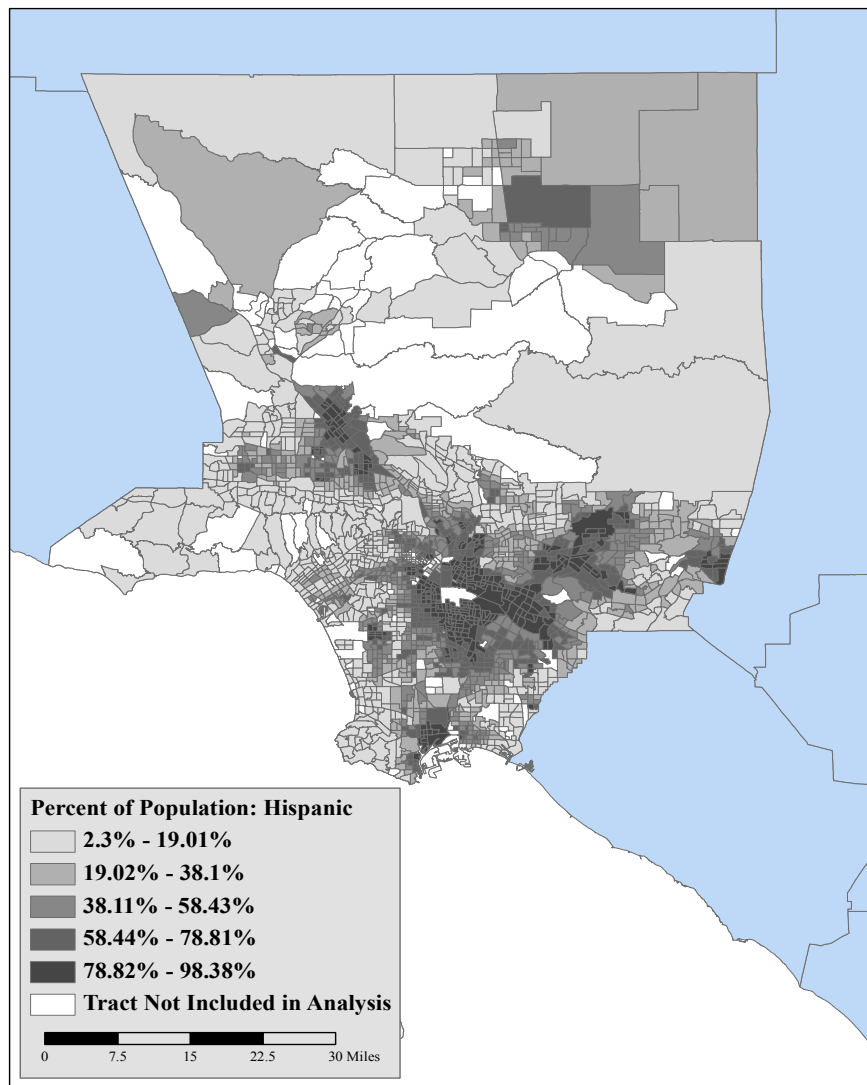
	NATA Cancer	% Asian	% Black	% Hispanic	% White
NATA Cancer	1.000				
% Asian	0.0254	1.000			
% Black	0.1156	-0.2249	1.000		
% Hispanic	0.3967	-0.3167	-0.0800	1.000	
% White	-0.4676	-0.0507	-0.3509	-0.7936	1.000

Depro, Timmins, and O’Neil (2015). “White Flight and Coming to the Nuisance: Can Residential Mobility Explain Environmental Injustice?” *Journal of the Association of Environmental and Resource Economists*. Vol.2, No.3 (2015):439-468.

# LA County Air Toxics (DTO 2015)



# LA County Air Toxics (DTO 2015)



# Mechanism: *Government Failure*

Another breakdown of Coasian bargaining arises in representative democracy when people are not really represented.

## Example: Flint, MI



Flint

[http://www.nationsonline.org/oneworld/map/USA/michigan\\_map.htm](http://www.nationsonline.org/oneworld/map/USA/michigan_map.htm)

# Mechanism: *Intergenerational Transmission*

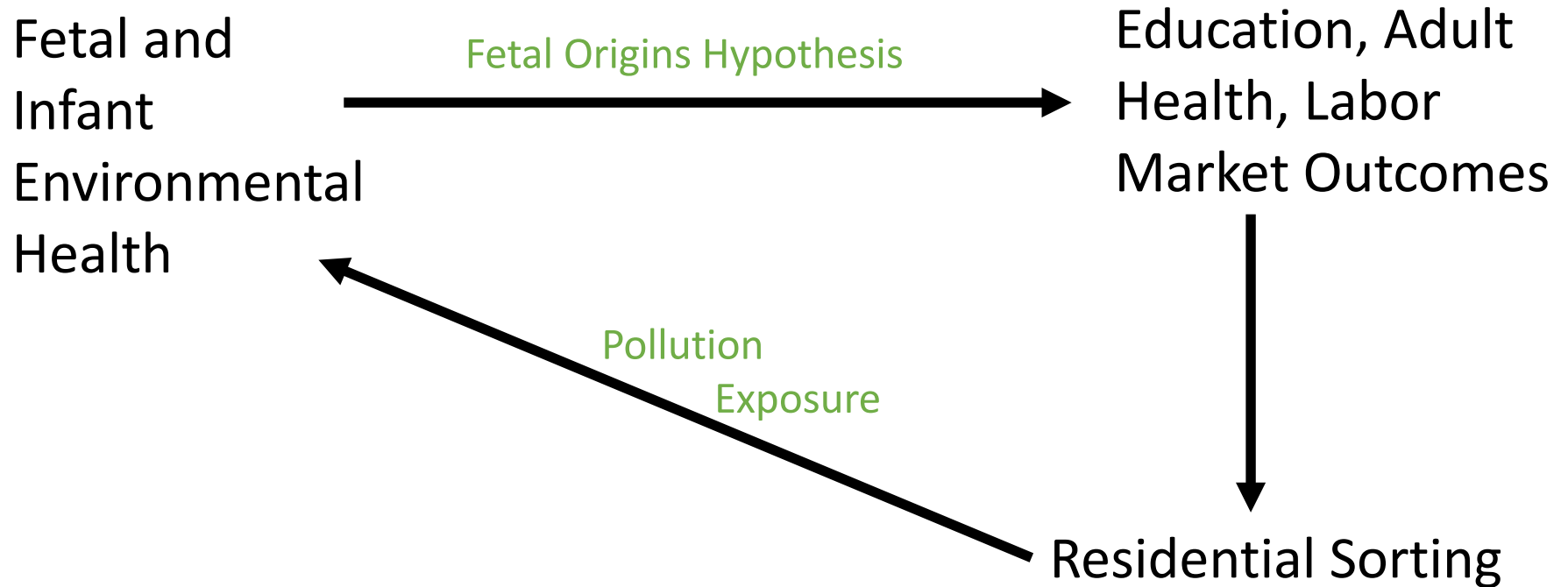
**Table 1.** Exposure to poverty during childhood and the probability of being poor at ages 20, 25, 30, and 35\*

Race	% of years living in poverty during childhood (birth to age 15)		Proportion poor at age 20	Proportion poor at age 25	Proportion poor at age 30	Proportion poor at age 35
<b>Total</b>	0%	(0 years)	4.1	5.3	4.3	0.6
	1%–100%	(at least 1 year)	20.8	20.1	13.6	13.3
	1%–50%	(1–7 years)	12.4	13.6	7.3	8.1
	51%–100%	(8–14 years)	46.0	40.0	33.6	45.3
<b>White</b>	0%	(0 years)	4.0	5.1	4.2	0.4
	1%–100%	(at least 1 year)	15.2	13.9	7.9	7.3
	1%–50%	(1–7 years)	10.7	10.4	4.7	4.2
	51%–100%	(8–14 years)	40.0	31.7	25.0	**
<b>African-American</b>	0%	(0 years)	4.7	8.1	6.9	5.2
	1%–100%	(at least 1 year)	34.6	38.9	29.6	27.1
	1%–50%	(1–7 years)	19.4	29.8	19.0	20.0
	51%–100%	(8–14 years)	51.3	48.4	41.8	43.4

\* Poverty status at more advanced ages is only observed for the increasingly restricted sample of individuals who reached the age specified.

\*\* Sample size less than 20 persons.

# Mechanism: *Intergenerational Transmission*



# Mechanism: *Intergenerational Transmission*

There is a large literature showing that pollution exposure in utero and in early childhood can have lifelong effects.

- Currie and Niedell (2005). “Air Pollution and Infant Health: What Can We Learn From California’s Recent Experience.” *Quarterly Journal of Economics*.
- Black, Devereux, and Salvanes (2007). “From the Cradle to the Labor Market? The Effect of Birth Weight on Adult Outcomes.” *Quarterly Journal of Economics*.



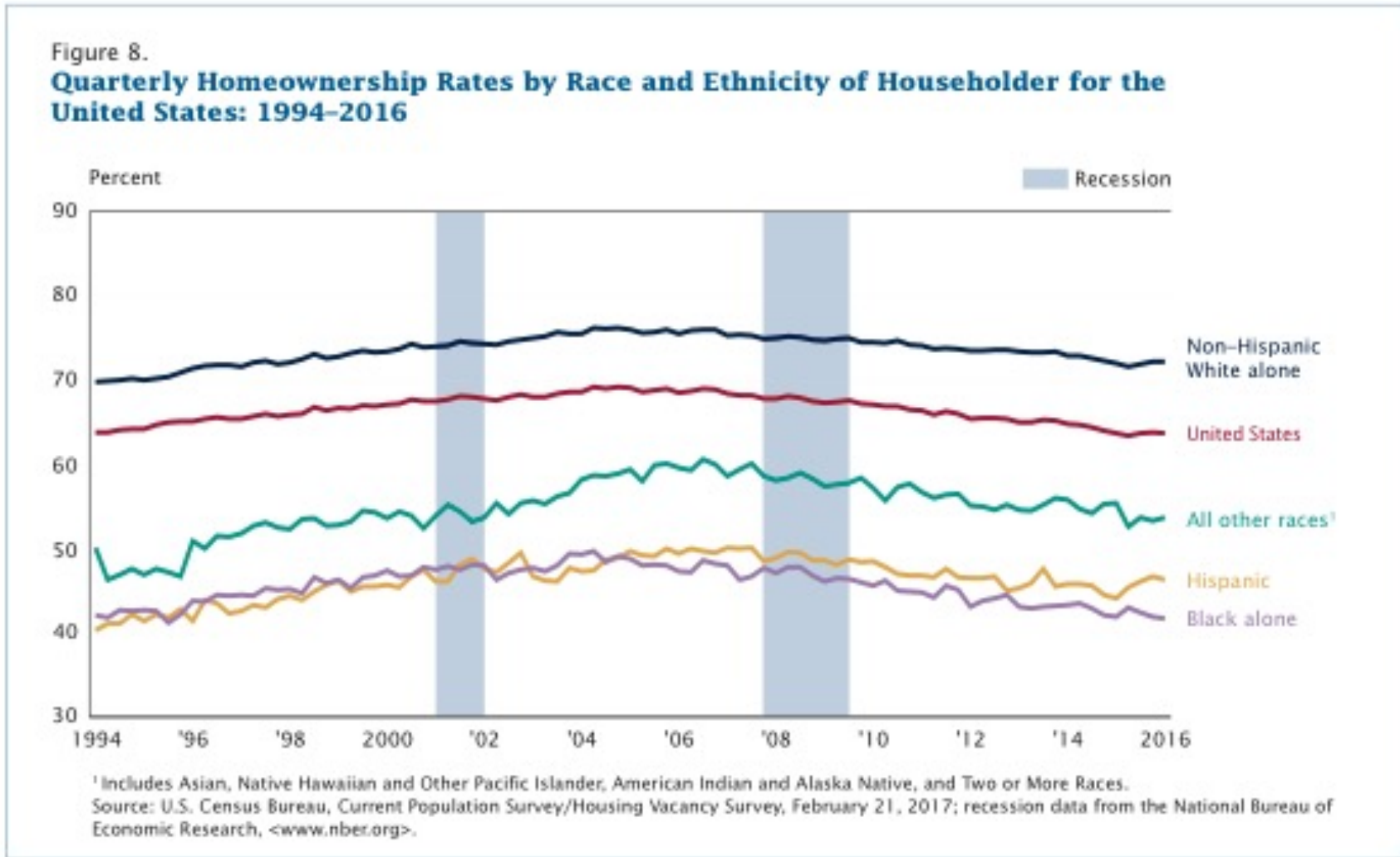
# Mechanism: *Intergenerational Transmission*

Becker (1981): Poor families have higher marginal utility of income and allocate more to consumption and less to investments in houses in neighborhoods with:

- good schools with high-performing peers
- clean air
- low crime rates

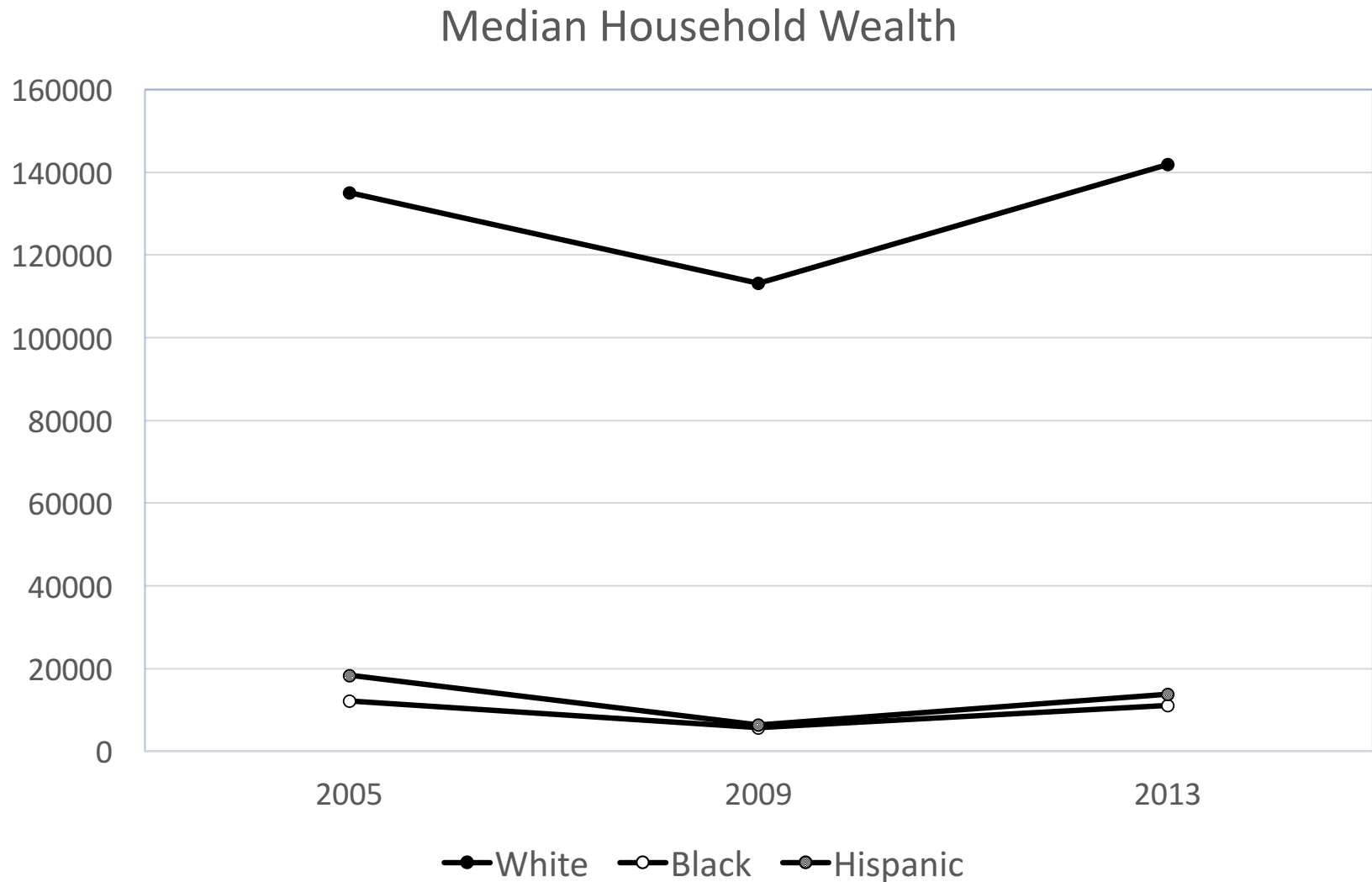
“Neighborhood Effects” literature suggests these will all matter for adult outcomes

# Feedback Effects



<https://www.census.gov/housing/hvs/data/charts/fig08.pdf>

# Other Transmission Routes



# Mechanisms: *Enforcement*

- Monitoring / Inspections / Enforcement
- Pollution Taxes / Fines / Penalties
- Remediation
  - identification of hazardous sites
  - cleanup speed
  - post cleanup standards
  - funding allocation

# *Lavelle and Coyle (1992)*

Violations in...	Average Penalty
White Zip Codes	\$153,607
Minority Zip Codes	\$105,028
High Income Zip Codes	\$146,993
Low Income Zip Codes	\$95,564

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M. Lavelle and M. Coyle (1992). "Unequal Protection: The Racial Divide in Environmental Law – A Special Investigation." 15 National Law Journal S2, Col. 1.

# *Atlas (2001)*

Violations in...	Average Penalty
Minority Tracts	\$133,808
White Tracts	\$113,791

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M. Atlas (2001). "Rush to Judgement: An Empirical Analysis of Environmental Equity in U.S. Environmental Protection Agency Enforcement Actions." *Law & Society Review*. 35(3):633-682.

# Enforcement: *Mixed Results*

- Some results suggest that penalties are stronger deterrents in minority areas. Other results suggest strong enforcement in white areas.
- Offenses may be worse in minority areas, and hence generate larger penalties.

# Enforcement: *Prosecutorial Discretion*

- The effect of race on penalties could come long before the penalty phase if prosecutors can choose to not go forward with cases in minority neighborhoods.
- Are only the worst offenses in minority neighborhoods prosecuted?



# Mechanisms: *Legal*

## **Title VI of the Civil Rights Act of 1964:**

**Prevents discrimination by government agencies that receive federal funds. If an agency is found in violation of Title VI, that agency may lose its federal funding.**

This has practical implications for pollution permitting decisions by state and local governments.

# Title VI and EO 12898

“In accordance with Title VI of the Civil Rights Act of 1964, each Federal agency shall ensure that all programs or activities receiving Federal financial assistance that affect human health or the environment do not directly, or through contractual or other arrangements, use criteria, methods, or practices that discriminate on the basis of race, color, or national origin.”

*-- President Clinton's Memo Accompanying EO 12898*

# Title VI: *EPA Enforcement*

EPA created Office of Civil Rights (OCR) to address its Title VI responsibilities. However...

- Did not create a private right of action under Title VI
- Did not provide for any type of judicial review of regulatory decisions

Highlighted Title VI in the environmental justice debate, but did little to clarify how the remedy would be applied “on the ground”.

# Title VI: *EPA Enforcement*

Because of a “turbulent environment” at the civil rights office, “OCR seemed to lose sight of its mission and priorities,”

“It appeared to place too much emphasis on minor responsibilities, like executing heritage events, and not enough on the critical discrimination cases affecting employees and disadvantaged communities.”

-- Audit of EPA OCR

# Title VI Complaints

Complaint against NC DENR  
filed under Title VI of Civil  
Rights Act in September 2014.

- [Waterkeeper Alliance, Inc](#)
- [Duke Environmental Law and Policy Clinic](#)
- [North Carolina Environmental Justice Network](#)
- [Earthjustice](#)
- [Public Justice](#)
- [North Carolina Conservation Network](#)
- [Southern Environmental Law Center](#)
- [Sierra Club](#)
- [Waterkeepers Carolina](#)
- [Pace Environmental Litigation Clinic](#)
- [University of North Carolina – Wilmington](#)
- [North Carolina State University](#)
- [Rural Empowerment Association for Community Health \(REACH\)](#)

<http://waterkeeper.org/pure-farms-pure-waters/north-carolina-cafo-campaign/>



NC CAFOs

# Title VI: *Sections 601 and 602*

- How is Title VI actually applied in the courts?
- Title VI contains two “sections”, each requiring a different type of proof of discrimination.

# Title VI: *Section 601*

No person shall “on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

-- *Section 601, Title VI, Civil Rights Act of 1964*

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-- *Section 601, Title VI, Civil Rights Act of 1964*

**Requires the plaintiff to prove *intentional* discrimination.**



# Title VI: *Section 601*

Supreme Court has ruled that racial and ethnic discrimination is “an often intractable problem” and that “it is often difficult to obtain direct evidence of [the] motivating animus.”

-- *Alexander v. Sandoval* (2001)

# Title VI: *Section 602*

“A recipient [of Federal funds] shall not use criteria or methods of administering its program which have the effect of subjecting individuals to discrimination because of their race, color, national origin, or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, national origin, or sex.”

-- *Section 602, Title VI, Civil Rights Act of 1964*

# Title VI: *Section 602*

“A recipient [of Federal funds] shall not use criteria or methods of administering its program which have the effect of subjecting individuals to discrimination because of their race, color, national origin, or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, national origin, or sex.”

-- *Section 602, Title VI, Civil Rights Act of 1964*

**However... Alexander v. Sandoval (2001) stated that there is no right of private action to enforce disparate impact regulations promulgated under Section 602.**

# Title VI: *Sections 601 & 602*

Private action requires proof of intentional discrimination, which is nearly impossible to get.

# Equal Protection Clause

“No State shall ... deny to any person within its jurisdiction the equal protection of the laws.”

# Equal Protection Clause

“No State shall ... deny to any person within its jurisdiction the equal protection of the laws.”

Must show intentional discrimination “based upon plaintiff’s membership in a protected class.”

# National Environmental Policy Act

- NEPA requires government agencies to examine environmental consequences of rules before they go into place.
- Imposes no requirements on pollution outcomes (only that a report describing impacts is prepared).

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**Some courts have asked NEPA reports to (re)consider EJ, but NEPA does not address EJ in a systematic way.**



# Mother Jones

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## North Carolina Republicans Are Trying to Keep Residents From Suing Hog Farms

The smell of pig manure is literally ruining people's lives.

TOM PHILPOTT APR. 21, 2017 6:53 PM



An aerial view of the waste lagoon next to hog houses at an operation in North Carolina's eastern hog belt. [Photographer](http://flickr.com/link-to-source-image)/AP Images

Meanwhile, states are passing laws that prohibit residents from seeking relief through lawsuits...

Why Should Economists Care?

# Conclusions: *Cost-Benefit Analysis*

Kaldor-Hicks Potential  
Pareto Improvement  
Criterion satisfies Pareto  
Efficiency *in expectation*.

This only works if the same  
people are not the losers  
every time we implement a  
policy.



<https://openclipart.org/detail/26849/scales-of-justice>

# Conclusions: *Cost-Benefit Analysis*

The theories and empirical evidence associated with environmental justice suggest that the same people do repeatedly lose...

# Conclusions: *Cost-Benefit Analysis*

The theories and empirical evidence associated with environmental justice suggest that the same people do repeatedly lose...

...and that fixing the problems they are confronted with is not going to be easy.



<https://ejatlas.org/conflict/water-crisis-in-flint-michigan>

Thank You!

Questions?