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NAACP Legal Defense Fund

Not Legal Advice

Addressing the Impact of Water Unaffordability on Black Communities

The NAACP Legal Defense & Educational Fund, Inc.

Founded 81 years ago by Thurgood Marshall

First two decades of LDF's work focused on combating school segregation, culminating in Brown v. Board of Education

Completely separate entity from NAACP since 1957

Four practice areas: Education, Criminal Justice, Voting Rights, and Economic Justice

Offices in NY, DC, and Atlanta

Thurgood Marshall Institute established in 2015, focusing on research and targeted advocacy campaigns

Case Highlights: Griggs v. Duke Power Co.; Hawkins v. Shaw



Reports about the increasing unaffordability of water



Evidence of the collateral consequences when people cannot afford their water bills

Affordability crises in Detroit, Flint, Baltimore, and Cleveland



Lessons learned from tax foreclosure case in Detroit

The Perfect Storm



WATER/COLOR

A STUDY OF RACE & THE WATER AFFORDABILITY CRISIS
IN AMERICA'S CITIES



A REPORT BY

THE THURGOOD MARSHALL INSTITUTE AT THE NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC.

The Collateral Consequences of Unpaid Water Bills

Water liens

- Can be placed on property for unpaid property taxes or certain municipal charges, like water and sewer services
- Once placed on home, the lien triggers the addition of penalties, interest, and fees
- If the owner cannot redeem their home by paying off the owed amount and extra charges, they can lose their home at tax sale

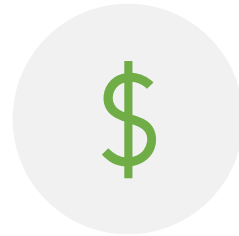
Water shutoffs

- Can make a home uninhabitable & health impacts
- Can be costly to have water service turned back on

Common Issues with Lien Sales



LIEN SALES CAN BE BASED
ON VERY SMALL OVERDUE
AMOUNTS



BILLS FOR PROPERTY TAXES
OR MUNICIPAL SERVICES
ARE OFTEN INCORRECT OR
INFLATED



MUNICIPALITIES OFTEN
HAVE DISCRETION IN THE
PROCESS

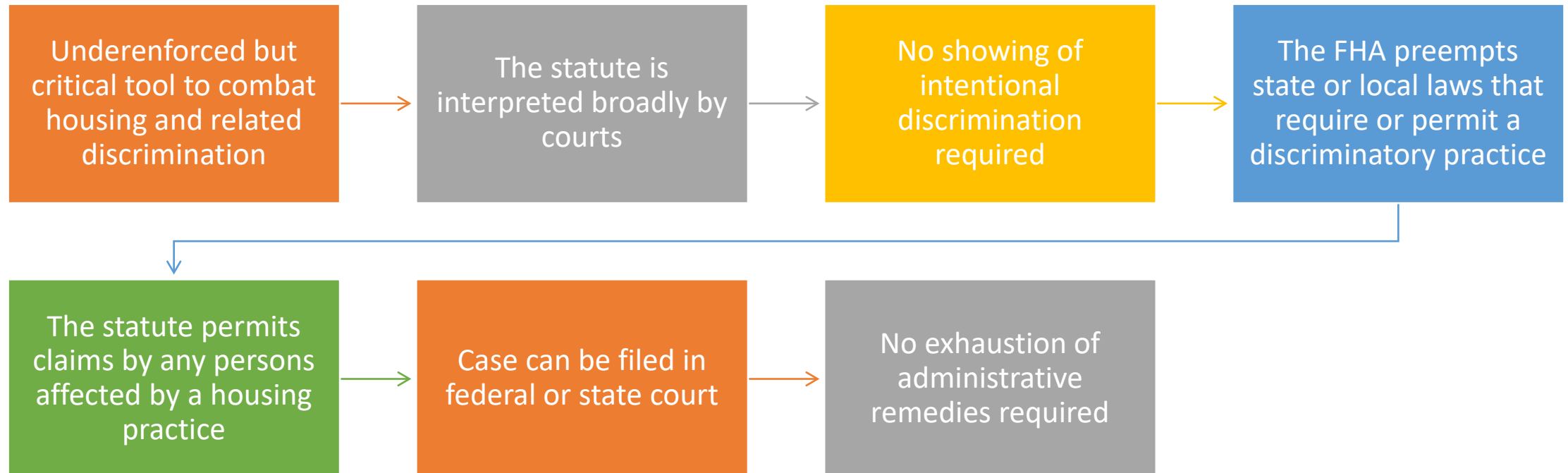


HOMEOWNERS TYPICALLY
LOSE EQUITY AND ARE
SUBJECT TO EVENTUAL
EVICTION



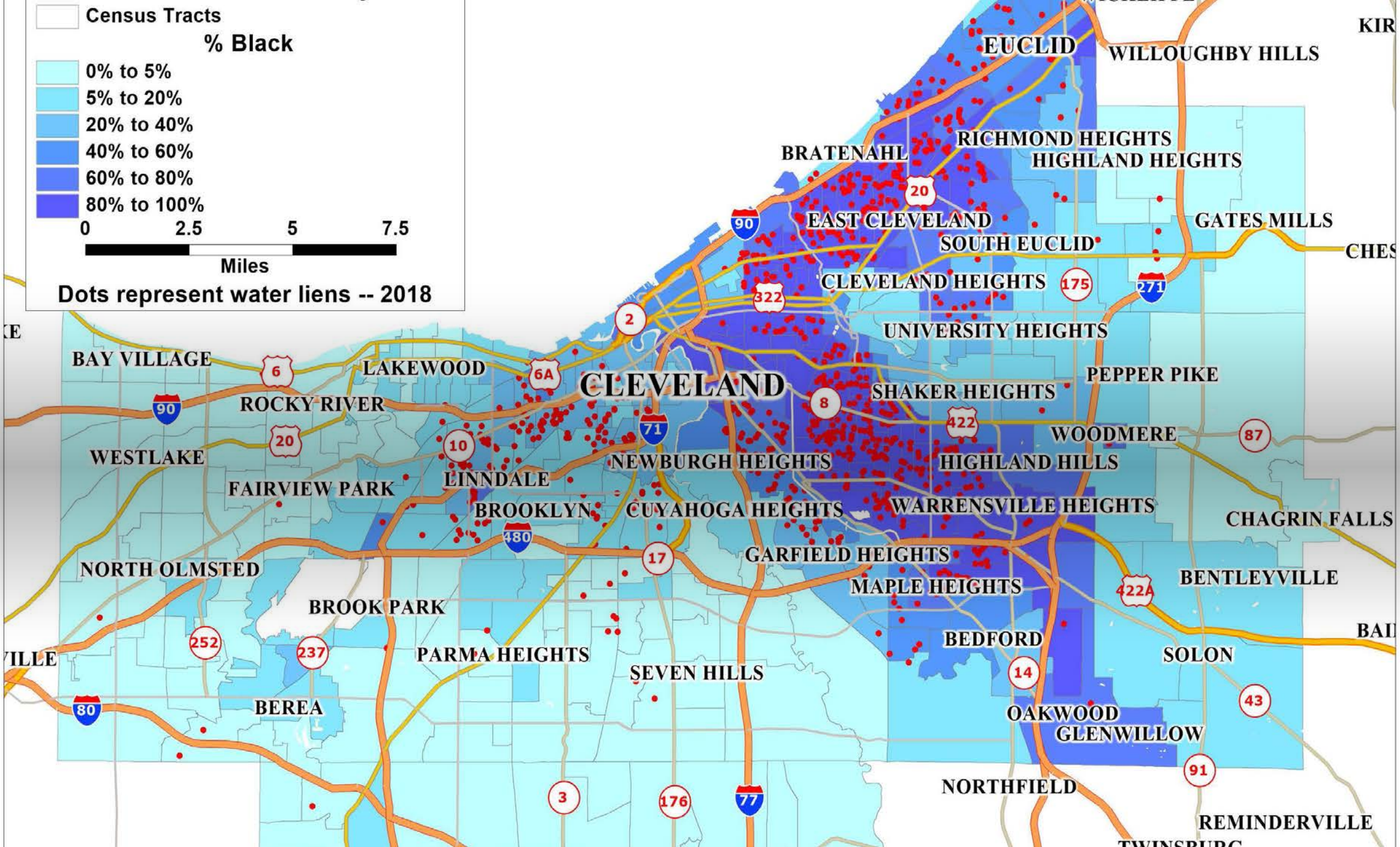
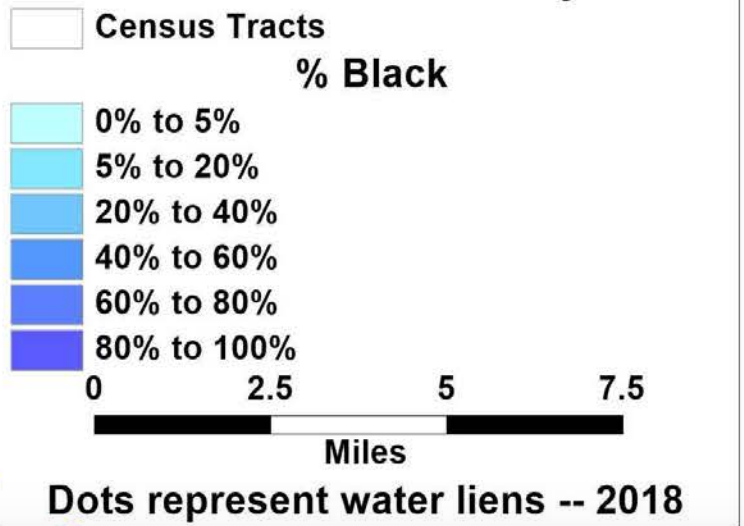
BLACK COMMUNITIES
DISPROPORTIONATELY
IMPACTED

Utilizing the Fair Housing Act to Address Water-Related Discrimination



Pickett v. Cleveland

- Lawsuit filed by LDF in December 2019 against the City of Cleveland on behalf of five individuals and several proposed classes
- The case alleges that Cleveland's practice of placing water liens on properties for unpaid water debt discriminates against Black residents in violation of the Fair Housing Act and Ohio civil rights law
- Plaintiffs also challenge Cleveland's procedures with respect to shutoffs and overbilling under the U.S. Constitution
- Cleveland's motion to dismiss the case was denied in September 2020 and the parties are continuing to litigate the case



Taylor v. City of Detroit

- In July 2020, LDF, ACLU of Michigan, and co-counsel filed a lawsuit challenging Detroit's water shutoff policy under the FHA, among other causes of action
- Plaintiffs allege that Detroit's shutoff policy disproportionately impacts Black residents of the city in violation of Section 3604(b) of the FHA, Section 1983 (Substantive Due Process & Equal Protection), and Michigan civil rights law
 - City of Detroit, Mayor, Director of DWSD: All claims
 - Governor: Separate SDP claim
- Between 2014 and 2019, more than 141,000 households in Detroit had their water service disconnected for non-payment
- During the relevant time period, Detroit was about 80% Black
 - 254 Census tracts were majority-Black
 - Only 5 tracts were majority-white
- Status of the case

Statistical Analysis

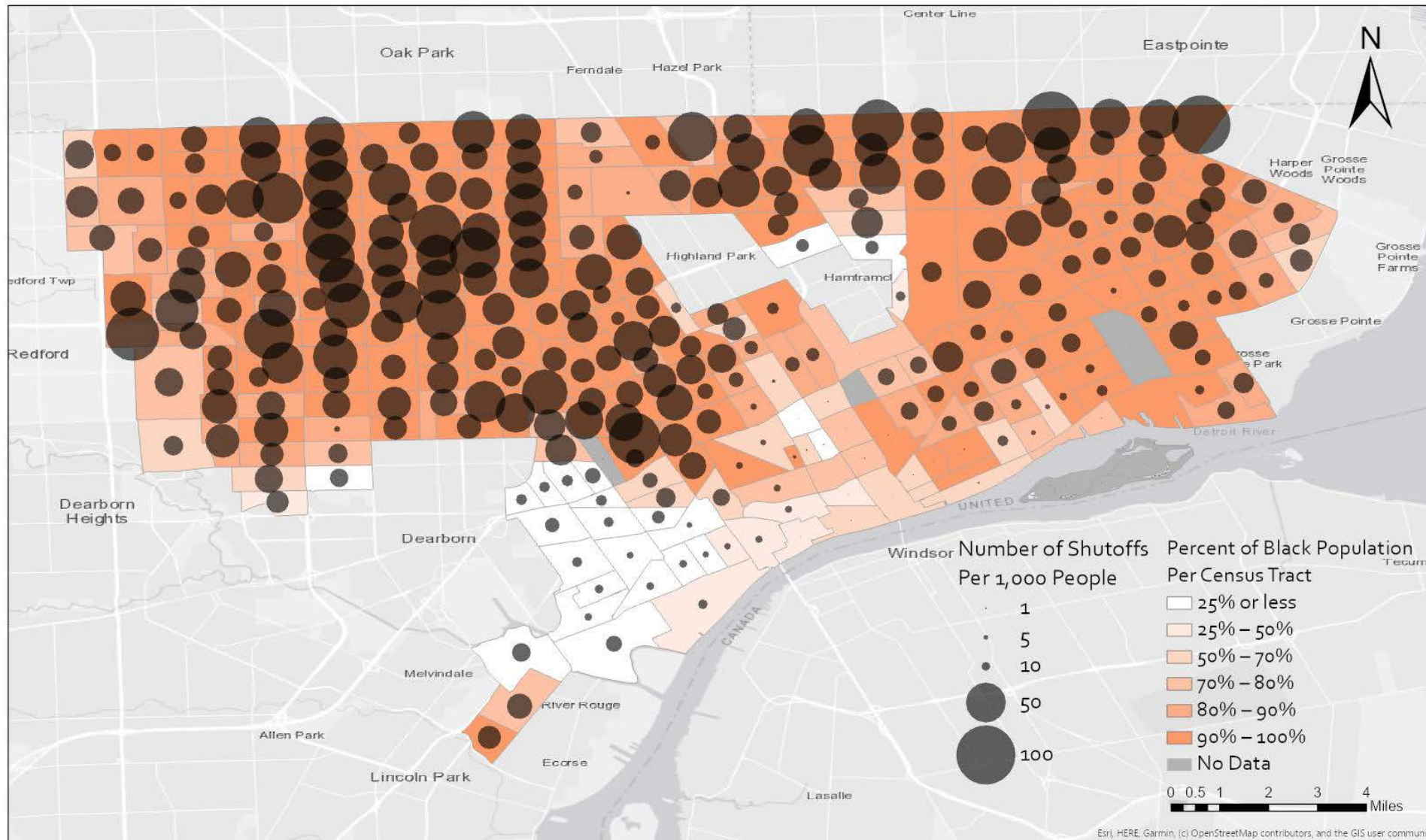
Analysis

- Plaintiffs analyzed data on shutoffs from January 2017 to July 2018 and January 2019 to January 2020
- Differences in analysis due to Detroit's predominantly Black population
 - Comparing tracts with 75% or more Black population to less than 75% Black population
 - Comparing tracts with greater than 50% Black population to less than 50% Black population
 - Comparing majority-Black tracts to majority-white tracts
 - Comparing shutoffs per 1,000 people
- Controls for income and counts of vacant properties

Results

- For 2017 to 2018, we determined that 95% of residential water shutoffs occurred in Census tracts with a population that was greater than 50% Black.
- We also determined that Detroit Census tracts with a less than 50% Black population had, on average, 21.7 (or 64%) fewer shutoffs per 1,000 people than tracts with a greater than 50% Black population
- From January 2017 to July 2018, Detroit Census tracts with a greater than 50% white population had, on average, 16.4 (or 64%) fewer shutoffs per 1,000 people than majority-Black tracts. Majority-Black tracts had 34.1 shutoffs per 1,000 people, while majority-white tracts had 17.7 shutoffs per 1,000 people.
- For the 2019 to 2020 data, we determined that 96% of residential water shutoffs occurred in majority-Black zip codes.
- Detroit zip codes with a less than 50% Black population had, on average, 30.6 (or 68%) fewer shutoffs per 1,000 people than tracts with a greater than 50% Black population.

Shutoffs and race in Detroit, 2017-2018



Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community



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