
HARVARD JOURNAL
OF
AFRICAN AMERICAN
PUBLIC POLICY



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IN THE AMERICAN SYSTEM

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LAW AND PUBLIC POLICY

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COMMUNITY POLICING AND
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*Workshop given by the 1993 National
Conference of Black Mayors*

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EDITORS' REMARKS

This past December, the Editors of the Journal, along with the other African-American students at the Kennedy School of Government, had the opportunity to meet with many of the newly-elected African-American Members of the United States Congress. These legislators expressed their enthusiasm and commitment to addressing the major policy issues that concern our community.

Nearly a quarter century ago, the Congressional Black Caucus was formed with only three African-American Members of the House of Representatives and one African-American Member in the Senate. Today, the 103rd Congress has 40 African-American Members, including the first African-American woman elected to the United States Senate.

As more African-Americans have attained high political office, the issues that they now face have become more complex and manifold.

One of the pressing issues which policymakers must confront is the continuation of federally-sponsored affirmative action programs. Here, Martin Kilson and Clement Cottingham discuss the impact of affirmative action policy and refute the traditional counter-argument that these policies are anti-merit and without precedent.

Lorenzo Morris provides valuable discourse on the lack of race-specific laws and public policies, analyzing how this judicial and legislative ambiguity has hindered gains through these avenues for African-Americans.

Another policy concern for the new Members is economic and community development. Along these lines, Susan M. Tinsley discusses the importance of the role of private businesses in fostering government employment programs. In addition, John I. Gilderbloom and Mark T. Wright outline an innovative approach to comprehensive housing and neighborhood development strategies.

The criminal justice system has long been an important area of debate for policy-makers. In this arena, Randolph N. Stone delivers a powerful examination of the racial and gender inequities of the American criminal justice system, and chronicles it from arrest to incarceration.

Education policy has moved to a prominent position on the policy-making agenda. Sanyika Anwisye comments from personal experience on the merits of an Afro-centric curriculum in fostering a sense of ethnic identity among young African-American school children.

Finally, in the wake of recent urban unrest, precipitated by poor police-community relations, several policymakers and academics recently gathered to discuss the merits of Operation Weed and Seed, a program which promotes community policing and neighborhood redevelopment.

We cannot underestimate how much the features of race, class and power have limited the possibilities of reform in public policy. Accordingly, we should not rest our hopes solely on the efforts and accomplishments of our new legislators. It is incumbent upon all of us to participate and enrich the public policy debate if we hope to arrive at productive solutions to these problems.

REVIEWS

The first chapter, 'The Role of the State', discusses the historical context of state intervention in the economy, particularly in the context of the 'Asian Tiger' economies. It examines the role of the state in the development of these economies, highlighting the importance of state-led industrialization and the role of the state in providing infrastructure and social services. The author argues that the state played a crucial role in the success of these economies, particularly in the early stages of development.

The second chapter, 'The Role of the Market', discusses the role of the market in the development of these economies. It examines the role of the market in the provision of goods and services, and the role of the market in the allocation of resources. The author argues that the market played a crucial role in the success of these economies, particularly in the later stages of development.

The third chapter, 'The Role of the State and the Market', discusses the relationship between the state and the market. It examines the role of the state in the provision of infrastructure and social services, and the role of the market in the provision of goods and services. The author argues that the state and the market played complementary roles in the development of these economies.

The fourth chapter, 'The Role of the State and the Market in the Future', discusses the role of the state and the market in the future. It examines the role of the state in the provision of infrastructure and social services, and the role of the market in the provision of goods and services. The author argues that the state and the market will continue to play complementary roles in the development of these economies.

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AFFIRMATIVE ACTION POLICY IN THE AMERICAN SYSTEM

*Martin Kilson*¹
*Clement Cottingham*²

The Context: America's Racial Caste Imperative

Fundamental to an understanding of Affirmative Action policy (that the Kennedy-Johnson Administrations established in the mid-1960s) is a prior understanding of the racial-caste imperative in the American system. At the basis of America's racial caste imperative was the erection of multi-layered anti-competitive barriers to Black Americans' social and political mobility. Not one of America's white ethnic groups -- not Irish, not Italians, not Jews, etc. -- experienced a comparable phalanx of xenophobically designed institutional barriers to their socio-political mobility in American life.

While the White Catholic ethnic groups (Irish, Italians, Polish-Americans, etc.) and Jews did experience two to three generations of xenophobic discrimination, their experience did not involve institutionally legalized and openly authoritarian discrimination. Between the 1880s and the middle 1960s, the vast majority of Black Americans resided in Southern states where a process of openly authoritarian social and political exclusion against blacks prevailed. And outside the South--in the North and West--in this 1880s-1960s era, there prevailed a pattern of quasi-authoritarian constraints on blacks' social mobility in such spheres of life as housing and job markets.

As the American system evolved in the late 19th century and during the first 50 years of this century, an intricate array of private-sector exclusionary patterns confronted Black Americans in job markets, credit markets, housing markets, and throughout the higher educational system. Also in this period, Black Americans confronted a pattern of rigid political discrimination or marginalization. Within the South -- where over 80 percent of blacks resided before the end of World War II -- only 5 percent of the adult black population had been permitted voting rights by the 1940s. By the 1960s, in the United States as a whole, only about 325 Black Americans had obtained elected political office, while the total black population amounted to over 10 percent of the nation. *It would take the aggressive intervention of the United States Federal government, especially through the enactment of the Voting Rights Act of 1965, before this massive political marginalization of Black Americans could be ended.* Again, none of the White ethnic groups in American life -- not Irish, not Italians, not Polish-Americans, not Jews, etc. --- ever experienced a

¹ Professor of Government at Harvard University. He is author of the forthcoming book, Politics of Inclusion: Blacks in American Political Culture.

² Associate Professor of Political Science at Rutgers University. He is author of the forthcoming book, Remaking of Urban Black Civil Society 1960s-1990s.

comparable pattern of quasi-authoritarian political exclusion, albeit within the constitutional framework of a democratic polity.

The Affirmative Action Policy Response

It was, therefore, in the face of this essentially authoritarian exclusion of Black Americans for equal access to the social and political institutions in American society that the Affirmative Action policy was evolved. The purpose of Affirmative Action policy is to remedy the consequences of a century of both law-based and custom based racial marginalization of black people in American society. And as Affirmative Action policy developed during the 1970s, it was also applied as a remedy to a century of gender marginalization of women in American society. Thus, as it developed, Affirmative Action policy explicitly targeted both blacks and women as its primary beneficiaries.

The first use of the term "Affirmative Action," in governmental circles, occurred in an Executive Order by President John F. Kennedy (Order 1095 of 1961) that outlawed racial discrimination by Federal contractors. There were also additional Executive Orders by Presidents Lyndon Johnson and Jimmy Carter that broadened and strengthened Affirmative Action policy.

In the late 1960s and throughout the 1970s, a series of Federal laws enacted by the United States Congress expanded the application of Affirmative Action. For example -- The Public Works Employment Act of 1977 required a 10 percent allocation to minority enterprises; the Department of Transportation provided venture capital and bonding facilities for minority entrepreneurs, and many Federal Grants in Education were directed specifically to benefit Black Americans. Perhaps the most important Federal law to advance Affirmative Action was Equal Employment Opportunity Act of 1972, which gave extensive authority to the Equal Employment Opportunity Commission (first created by the Johnson Administration under the Civil Rights Act of 1964) to prevent discrimination and racism in occupational hiring. Finally, throughout the 1970s, Affirmative Action policy acquired an assertively pro-active orientation, by which a wide range of institutions in the private sector that were recipients of Federal funding or contracts (especially businesses and universities) were required to actively recruit minorities (especially blacks) in jobs and as students.

Thus, since the middle 1960s onward, the existence of Affirmative Action policy -- mandated by the Federal government -- has amounted to a form of governmental-fostering or pump-priming of social mobility for Black Americans. And when this Affirmative Action policy combined with periods of strong economic growth -- as it did throughout the late 1960s and for shorter periods during the 1970s and 1980s (about at an approximately three-year cycle rate) -- the result has been an historically significant expansion of the stable working-class and the middle-class (or bourgeois) sectors among Black Americans.

TABLE I
 EMPLOYMENT CHANGE BY OCCUPATION AND RACE
 1972 AND 1980*
 (Numbers in Thousands)

Occupation	Black employment change 1972-1980		White employment change 1972-1980	
	Number	Percent	Number	Percent
Total employment	1,344	17.3	13,306	18.2
White-collar workers	1,185	55.3	10,022	27.4
<i>Professional and technical</i>	354	55.4	3,592	33.8
<i>Managers and administrators</i>	168	69.1	2,639	34.2
<i>Sales</i>	88	51.9	698	13.5
<i>Clerical</i>	580	52.7	3,094	23.8
Blue-collar workers	215	6.8	1,760	7.0
<i>Craft and kindred workers</i>	217	32.3	1,427	14.2
<i>Operatives, except transport</i>	73	5.8	-209	-2.3
<i>Transport equipment operatives</i>	41	9.0	204	7.5
<i>Nonfarm laborers</i>	-116	14.7	337	10.0
Service workers	21	1.0	1,826	21.2
<i>Private household workers</i>	-238	-41.8	-159	-18.6
<i>Other service workers</i>	259	15.9	1,985	25.6
Farmworkers	-74	-31.9	-302	-10.8
<i>Farm managers</i>	-23	-51.1	187	-11.4
<i>Farm laborers</i>	-51	-27.3	116	-9.9

Source: *Monthly Labor Review*, June 1982. p. 30.

(* rate of change refers to annual averages)

For instance, during the strong economic growth period between 1964 and 1970 -- which produced 13 million new jobs of which 75 percent were middle-class or white-collar jobs -- the existence of Affirmative Action policy ensured that, for the first time in this century, Black Americans gained a significant share of these middle-class jobs. Thus, between 1964 and 1970 the black middle-class expanded between 8 percent and 12 percent annually. This meant that, while only 13 percent of Black Americans held middle-class occupation in 1960, 27 percent of Black Americans were middle-class in 1970. And though the growth rate of middle-class blacks during the 1970s slowed to 3 percent annually (compared to between 8 percent and 12 percent in the late 1960s), there was still an overall expansion of middle-class blacks. Data for the early 1980s show over 3.5 million blacks in middle-class jobs -- about 40 percent of Black Americans. In a commentary on this process of governmental-fostering or pump-priming of mobility for Black Americans since the late 1960s, Professor Bart Landry of the University of Maryland -- the major analyst of Black American social mobility -- observed that:

Black middle-class growth . . . was unique not only for its high rate of increase, but also for the diversity of occupations that blacks entered -- accounting, engineering, science, architecture, and sales and clerical work in white establishments. In short, blacks were entering white-collar occupations in all areas of the economy.³

The data in Table I provides a general overview of the increase in middle-class occupations among Black Americans between 1972 and 1980. Data are also provided on the increase in upper working-class jobs for blacks (category labeled "Craft and Kindred Workers" and category labeled "Transport Equipment Operatives.")

We should also note that the expansion of middle-class occupations for Black Americans from the late 1960s onward also involved an expansion of family income levels for Black American households. This expansion is shown in Table II, which shows the household income rank for blacks as of 1986. These data reveal that some 45.6 percent of black households now fall within middle-class income levels (that is \$20,000 and above) and at least another 15 percent of black households fall within stable working-class income levels (that is, above \$15,000). Thus, about two-thirds of Black American households now fall within what we would call the "mobile stratum" (stable working-

³ Landry, Bart. "The New Black Middle Class," Focus: Journal of Joint Center For Political and Economic Studies (September 1987) p. 6 See also Bart Landry, The New Black Middle Class (Berkeley: University of California Press, 1987).

class and middle-class categories), while the remainder fall within "static stratum" (poor working-class and poverty categories). In comparison with White Americans, some 71 percent of white households have incomes at middle-class level and above, and perhaps 9 percent have stable working-class incomes, with the remainder of white households falling in the poor working-class and poverty categories (20 percent).

TABLE II
FAMILY INCOME 1986
(by percentage)

	Black Families	White Families
Over \$50,000	8.8	22.0
\$35,000-\$50,000	12.4	20.6
\$20,000-\$35,000	24.3	28.5
\$10,000-\$20,000	24.5	18.6
Under \$10,000	30.2	10.2
Median	\$17,604	\$30,809

Source: Bureau of the Census

We should also note that since 1989, the upper segment of the "mobile stratum" among Black Americans has continued to expand. For instance, of 10,488,000 black households in 1989, some 246,000 earned between \$50,000 and \$54,999; 92,000 households earned more than \$70,000; and 8,000 black households earned more than \$100,000. Furthermore, 1990 Census Bureau data show that the two-parent (husband/wife) black families are the first category of blacks to nearly close the income gap dividing black and white families. Today, the two-parent black family (30 percent are two-parent families) earns \$85 for every \$100 earned by white families, while in general, the average black family earns only \$56 to \$100 for the average white family.

TABLE III
SELECTED MIDDLE-CLASS OCCUPATIONS HELD BY BLACKS, 1990

OCCUPATIONS	U. S. TOTAL (Numbers in Thousands)	BLACK (by pctage)
Managers (marketing, man- management, public relations)	630	2.1
Managers (properties, real estate)	302	6.3

Computer Systems Analysts	987	5.8
Engineers	1,919	3.6
Registered Nurses	2,494	7.1
Therapists (occupational, physical)	479	7.2
Computer Programmers	882	6.7
University Teachers	846	4.8
Special Education Teachers	467	9.5
Health Technologists	2,595	12.9
Biological Scientists	83	2.0
Chemists	96	5.2
Engineering Technicians & Technologists	1,640	7.2
Accountants and Auditors	1,325	7.6
Educational/Vocational Counselors	192	15.5

Source: *Black Enterprise* (February 1993) p. 67

Finally, the data in Table III reveal the wide range of middle-class occupations in American society today (1990) that have become open to Black Americans through Affirmative Action policy. Since the early 1970s Black Americans have evolved from a nearly zero-percentage representation to a middle-range level of representation in major middle-class occupations. For example, blacks now hold 7.6 percent of accountants/auditors jobs; 6.3 percent of managers of properties and real estate; 3.6 percent of engineers; 5.8 percent of computer system analysts; 6.7 percent of computer programmers; almost 5 percent of university teachers; nearly 13 percent of health technicians; and 7.2 percent of engineering technologists and technicians.

Is Affirmative Action Unprecedented And Anti-Merit?

There is, we suggest, little doubt about the successful impact of Affirmative Action policy upon the social mobility of the "mobile stratum" among Black Americans since the 1960s. But this success of Affirmative Action has also stimulated much opposition to it, especially among White Americans. According to opinion polls, some two-thirds of whites favor Affirmative Action in a general way, *when it does not involve formalized rules and procedures that compel social mobility assistance for minorities and women*. But 80 percent of White Americans oppose Affirmative Action when this policy involves formalized "goals" and "preferential treatment."

Conservative intellectuals and Republican Party politicians (and some conservative Democrats too) have provided most of the leadership to the opponents of Affirmative Action. The opponents to Affirmative Action have followed mainly two lines of argument. First, the opponents have argued that the Federal-fostering of social mobility opportunity and resources for blacks in jobs, education and entrepreneurship is unprecedented and thus unfair or unjust. They claim that no other ethnic group has historically been affirmatively assisted in social mobility through law or public policy as Affirmative Action does for blacks. Affirmative Action, therefore, amounts to a form of "reverse discrimination," a term first used by the Harvard University sociologist Nathan Glazer. There is also a second argument by the opponents of Affirmative Action. Affirmative Action, they argue, circumvents the rules of meritocracy. And there is another facet to this meritocracy criticism, put forward by a small cadre of Black American conservatives who argue that the black beneficiaries of Affirmative Action are stigmatized in the eyes of many White Americans because they "did not achieve social mobility by themselves," which is to say that they circumvented the merit rules. Thomas Sowell, Shelby Steele and Stephen Carter have been the main black conservative intellectuals who have opposed Affirmative Action policy along these lines.⁴

In arguing against these opponents of Affirmative Action, we believe that it is neither unprecedented nor anti-merit.

Public policy practices akin to Affirmative Action policy are not without precedent in American politics and society. Ever since the rise of the modern American polity after the Civil War, the politics in American cities, counties, states and at the Federal level have involved the tendentious allocation or skewing of mobility resources to specific ethnic-blocs and other interest groups (eg. wide variety of businesses, farmers, railroad and mining firms, etc.) This process of allocation is termed "patronage politics" in the American system, and a wide variety of mobility resources have been allocated to specific ethnic-blocs and other interest groups -- resources like government credit to businesses, real estate grants to developers, real estate or land grants to railroad and mining firms, licensing and zoning privileges to businesses, business contracts

⁴ See Martin Kilson, "Anatomy of Black Conservatism," Transition (Spring 1993).

allocated by cities and counties and states, massive subsidies to wheat and tobacco and dairy farmers, so on and so forth.⁵

Throughout the United States, businesses and professionals who were associated with the White Anglo-Saxon Protestant (WASP) sector have disproportionately benefitted from this patronage-politics mode of government-fostering of class mobility.⁶ And businesses and professionals who were associated with the Irish-American sector have also benefitted from the patronage-politics mode of class mobility.⁷ Insofar as the patronage-politics mode of class mobility is not formalized in legal terms and public policy, we call it a "de facto" Affirmative Action.

The legalized or "de jure" type of Affirmative Action, however, is required for Black Americans, women and Latinos *because these groups were denied democratic access to the normal political avenues that allocated mobility resources for nearly 100 years under the modern American polity*. And blacks and Latinos (women to a lesser extent) were also systematically denied fair access to higher educational institutions for about 80 years of the modern American polity -- from say, the 1880s to the 1960s. Furthermore, the opponents of Affirmative Action are a bit too rigid, because the "de jure" type of Affirmative Action that is applied to blacks and women is essentially no different than the laws and public policy that provide subsidies to farmers, class mobility benefits to veterans, and also massive tax benefits to businesses and industry.

A Critique Of The "Reverse Discrimination" Argument

This brings us to the "reverse discrimination" charge against Affirmative Action. There is no doubt that as a form of government-induced class mobility for Black Americans, Affirmative Action involves an element of *preferential treatment* of blacks (or of women and Latinos). This is what conservatives like Nathan Glazer have in mind when they label Affirmative Action as "reverse discrimination." But conservative critics are somewhat dishonest in this matter, because they do not mention that an element of *preferential treatment* is a basic part of a long tradition of government-induced mobility pump-priming to benefit a specifically targeted group, such as veterans, small businesses, wheat farmers, dairy farmers, etc. When some citizens gain tax holidays and others do not this is clearly *preferential treatment*: and when some farmers gain subsidies in the billions of dollars (during a generation time period) while other farmers live-and-die by market forces, this, too is *preferential treatment*.

⁵ See Grant McConel, Private Power and American Democracy (New York 1966).

⁶ See Seymour Lipset, The First New Nation (New York, 1963) and Digby Baltzell, The Protestant Establishment (New York, 1964).

⁷ See Dennis Clark, The Irish In Philadelphia (Philadelphia 1972) and Harold Zink, City Bosses in the United States (Durham, 1930).

In the same manner, then, Affirmative Action practices for Black Americans (or women and Latinos) also involve *preferential treatment*. But in all of these instances of government-induced class mobility benefits (whether for businesses, farmers, veterans or for Black Americans and women), there is one important process that neo-conservative opponents of Affirmative Action never mention. Namely, that there is an ethical basis underlying policies that utilize preferential treatment; preferential treatment programs are expected to serve "a higher public value or purpose."

In a democratic polity, it is ethically valid for government to extend favorable benefits disproportionately to certain citizens, as long as a plausible "higher public value" is being served.

Thus, the "reverse discrimination" criticism of Affirmative Action is merely an ideological criticism by neo-conservatives. They do not extend this "reverse discrimination" criticism equally to government programs favoring farmers and businesses. Critics of Affirmative Action simply do not believe that America's racist and authoritarian marginalization of its black citizens for four generations (from 1880s to 1960s) warrants a compensatory public policy like Affirmative Action -- a policy that serves "a higher public value."

Conclusion:

Successful Affirmative Action In The United States Armed Forces

There remains to be mentioned a special paradox associated with the conservative criticism of Affirmative Action in terms of "reverse discrimination" and meritocracy. Though conservatives charge Affirmative Action policies with more failures than successes, they never mention the area of major achievement for Affirmative Action. That area is the United States Armed Forces.

Since the early 1970s, the armed forces have developed a highly successful Affirmative Action policy which has markedly advanced the status of Black Americans (and women too) in one of America's most segregated and racist institutions. Studies by the Northwestern University sociologist Charles Moskos reveal that while barely 2 percent of armed forces officers were black in the 1970s, by the end of the 1980s, some 12 percent of officers were black (7,000), which includes 7 percent of all generals and 11 percent of colonels.

Furthermore, while in the 1970s only 5 percent of non-commissioned officers were black, by the middle 1980s there were 85,000 black non-commissioned officers in the United States Armed Forces. This includes 24 percent of Master Sergeants and 31 percent of Sergeant Major rank. How was this enormous elevation of Black Americans in the United States armed forces achieved?

It was achieved through Affirmative Action techniques that involved "promotion boards," which have the authority to set "goals" and "timetables." According to Professor Charles Moskos, for any particular promotion board, "the goal . . . is to achieve a percentage of minority and female selection not less than the selection rate for all officers being considered." Moskos claims

that the advantage of this formula is "that if the goal is not met, the board must defend its decision, [and so] the pressure to meet the goals is strong."

As a final observation, we would concur with a recent observation on Affirmative Action by Professor Christopher Edley of the Harvard Law School. After remarking that there is no doubt about the legality of Affirmative Action programs -- even though the United States Supreme Court has limited the range of some programs -- he observed that:

Both statistical and anecdotal evidence suggest that affirmative action continues to be effective in increasing diversity in the workplace. It also seems to be effective not just for elites or the middle class but for blue-collar and entry-level workers as well. Indeed, some studies suggest that it is more effective for entry-level, low skilled workers. [However] while affirmative action has resulted in important success and progress, it is not a complete answer to the problem of minorities' economic and social integration into the economy and workplace.⁸

⁸ Edley, Christopher, "Affirmative Action Is Legal and Effective," Focus: Journal of the Joint Center For Political and Economic Studies (January, 1992) p. 3

RACE SPECIFICITY IN AMERICAN LAW AND PUBLIC POLICY

Lorenzo Morris¹

Introduction

The celebration of a major social and political victory in the wake of a protracted and intense struggle often leads to euphoric exaggerations of what has been achieved. A national sigh of relief after hard fought political struggles may lead to misconceptions about the degree of political transformation the struggle is capable of precipitating.

The successful passage of the civil rights movement from protest to "legitimacy" and from disruption to institutionalization under the law gave rise to so much rejoicing that it may have obscured the persistent failures lying just beneath the surface of law and adjudication. The 1960s passion for change and the enthusiasm for the progress made in race relations have left a legacy of misconceptions about the status of race relations in American law and policy. The tangible hallmarks of progress, substantial as they may be, distort and disguise the scarcely altered continuity of the legal and political structure for dealing with racial problems.

The tangible policy products of the legal and political processes have changed dramatically, and it was the prospect of this change which initiated the long sigh of relief that began in 1954 with the BROWN decision. Had the expectations surrounding BROWN been limited to the promise of delegitimizing racial segregation, the celebration might not have been premature. Yet, popular expectations, as well as the claims of political leadership, went far beyond the reform of discriminatory law to the heralded assertion of a fundamental transformation in societal perceptions of values on race. All that had changed, however, was the consistency and conformity of the application of law to racial discrimination along with public awareness of civil rights inconsistencies. In a fundamental sense, however, old legal and

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public policy standards on race had been preserved. Accordingly, the groundwork for the forthcoming change in the legal status of racial inequality before the law and the treatment of racial issues in American public policy has gone relatively unchanged.

In terms of the guiding principles of American public policy on race, the law including civil rights law, merely defines the parameters or the boundary conditions within which the public choices are to be made and the methods by which they may be implemented. The recentness of most civil rights law encourages the perception of these laws as part of a continuing policymaking process when, in fact, most modern civil rights legislation embodies the fundamental preferences of a bygone period in American politics. The codification, or putting into legislation of these established policy preferences (consensus), may constitute no more than a refinement or implementation of old policy. In other words, what legislators in the 1960s felt compelled to translate into law, and what judges felt the need to affirm in their decisions, were established principles of law in need of adaptation or refinement. A change of legislative or judicial "policy" was thus initiated primarily in an effort to reaffirm old law in the face of new societal pressures.

The visible evolution of American civil rights from the 19th century to the present is widely interpreted as an uneven but relentless movement toward an increasingly race-conscious exercise of public authority. Government responsibility for the equitable treatment of Black Americans is frequently understood to flow historically from the identification and attempted rectification of the injustices imposed on blacks in the past. Yet, given persistent pressures, it is rather the failure to define the injustices, or at least the failure to examine its racial content, that gives rise to new legislation.

The history of Black American political protest has generally been defined by the development of protests around goals of equity and benefits for Black Americans as a whole. The focus on race in the initiation stage of political action is usually so strong that the public expression of a movement's goal generates a fearful public response. By the time the goals are translated into law and public policy, however, the focus on race is completely diluted. By contrast, equity, albeit interracial, is given new meaning. The elimination of a race-conscious focus for public policy and law, and not its articulation, it shall be argued, has been the overall by product of the presumed historical progress toward civil rights protection. As Black Americans have increasingly turned national attention toward their particular interests, national public authority has served to redefine those interests as racially indifferent, national interests. Such definition has not occurred, however, without a real transformation of the interests and their outcomes.

The transformation will be explored first through a look at the concept of race in the 20th century judicial interpretation. Rather than demonstrating a liberating evolution of race relations, there is an overlooked continuity and consistency in legal concepts of race which emerge from the 19th century endorsement of segregation to the 1960s rejection of it.

That continuity, it will be argued, is only broken by the changing evolution of the federal government's responsibility for mediating and/or remediating the social disruption that the uniformed intervention of lesser public authorities may have caused. Government is seen as engaged in short term corrections rather than enduring adjustment. Third, the adjustments are fundamentally oriented toward reducing government involvement in racial issues. Race was seen by the courts in the 19th century as beyond the purview of government regulation; it is seen in the 20th century as something that should be beyond its reach.

Fourth, the prevailing approach to race as a subject unsuited for public responsibility serves to deform the public approaches to compensation and disadvantage. What started out with a strongly race conscious focus and an egalitarian base were diluted to the affirmative action policies we know today. The dilution of the policies flows logically from the assertion of a traditional approach to disadvantage. In this approach all compensatory disadvantage must be recognizable as disadvantage that everyone can feel and theoretically experience.

Fifth, the language of legislation and policy regulation has been developed around the wholly interracial and universalistic ideal that the only real measure of inequality is one that includes material assets. That is to say, a form of inequality open to all and tolerated by everyone as long as it is consistent with competition.

Finally, the protests which give rise to policy intervention may be expressed by the protestors in race-specific terms, but the legislative process will inevitably strip the policy of any meaningful racial content.

I. Background Of Race Specificity

As for the legal principles guiding public policy on racial issues, the 1954 BROWN decision, with its dramatic consequences for desegregation, appears to have broken dramatically from the fundamental guidelines of prior civil rights law. There was so much rejoicing over what BROWN had done in overturning the segregationist precedent established by the PLESSY decision that what BROWN preserved and even reinforced in PLESSY has been virtually overlooked. In its fundamental guidelines for the treatment and definition of racial issues, BROWN, it will be argued, substantially confirms PLESSY. The Supreme Court preserved the parameters and concepts of race before the law expressed in PLESSY, but changed the focus to allow greater freedom for government in the implementation of Constitutional law.

The question of race facing American society may have always been whether blacks and whites should live in racially segregated, desegregated or integrated patterns. But that was not the question before the courts in the 1950s nor in the preceding century. The primary question for adjudication was, rather, concerned with what role the government should play in the interracial relationship as it evolved under its own societal impulses. That American

society should or should not be desegregated through the force of government intervention was at issue only in so far as other governmental responsibilities compelled government intervention. These other responsibilities significantly included the government's prior responsibility for having created official segregation and sustained quasi-official segregation.

Of course, the social climate had substantially changed in the intervening period. In 1896 "the commingling of the races," in PLESSY's terms, was viewed as a violation of the natural, if not divine, order of human nature. By 1954, it was seen as the ineluctable goal of social evolution. Yet, in both periods, the active role of government in creatively changing the status of race relations was never affirmed as a value in itself. Rather, in 1954 government accepted its responsibility for undoing the previous intervention of government in race relations and for addressing the "sociopsychological harm" its prior suborning of segregation had helped (though not necessarily intentionally) to create. Justice Earl Warren's appeal to the virtues of a "color-blind" society was an affirmation that society was changing, and had already changed, from the "color-conscious" society of PLESSY. His opinion was not, however, an affirmation of government's authority to do more than eliminate the color-consciousness it had itself consciously institutionalized.

The Court's recourse to the equal protection clause of the 14th Amendment gave the impression that equal protection of the laws necessitated the eradication of all distinctions based on race when, in fact, only those distinctions founded in segregationist law were explicitly entailed. One could easily encapsulate the conceptual difference here by concluding that racial segregation and discrimination were deemed unconstitutional in 1954 while racial separation was not. Such a conclusion is, however, fairly meaningless for the time period and, probably, today as well because racial separation was historically inconceivable without the reinforcement of law. No reputable jurist would have tried to speculate before the courts on a hypothetical structure of race relations whether they were separationist or integrationist. In fact, such speculation might well have been deemed juridically inappropriate since racial separation and integration, *per se*, were beyond the reach of law.

As a consequence, desegregation began to take form through the courts within the very narrow confines of removing the legal barriers while leaving open the ambiguous issues of racial interaction as if they were on the periphery. What could or should be done about the vestiges of segregation could scarcely be clarified without a clarification of the field of race relations without regard to segregation. In other words, what was beyond the barrier to desegregation was also beyond the range of conceptualization in the courts.

In effect, the Supreme Court ruled that segregation and discrimination were illegal because they involved "authoritative" subjugation. In the absence of authority, therefore, racial prejudice, implying personal, sociopsychological or ethnocentric disempathy, were beyond legal redress. The distance between these conditions may well involve the sociopsychological harm of which the Court spoke but the harm itself was not the subject of adjudication, it was,

rather, the cause of the harm. Yet, by inculcating government behavior in a harmful relationship, the Court cast a strong suspicion of unconstitutionality over all unequal racial relations. As far as the actual content or substance of these relations were concerned, the Court delegated authority to the school system, as a private entity, and retained the authority to judge the equity of the school's behavior. Accordingly, the Court concluded its 1955 booster declaration in *BROWN II* with a show of faith in the school's ability to define race relations:

School authorities have the primary responsibility for elucidating, assessing, and solving these [desegregation] problems; courts will have to consider whether the action of school authorities constituted good faith implementation of the governing constitutional principles. Traditionally, equity has been characterized by a practical flexibility in shaping the remedies and by a facility for adjusting and reconciling public and private needs . . .²

The idea that quasi-private school authorities have primary responsibility for "shaping" the public interest in interracial equity suggests at a minimum that public authorities will be liberated from the need to promulgate specific criteria for racial equity. Instead, the interface between race and government was perceived in *BROWN* as primarily, if not exclusively, accessible through policy implementation. The policy in this instance was presumed to be "equity" while race and race relations were the problems which needed to be forced into conformity with traditional, and, by implication, non-racial models of equity.

The problem for the Court was, and remains, that it cannot arrive at an operational definition of race relations that improves on the one in *PLESSY*. In fact, it cannot produce a concept of race, as a politically relevant phenomenon but, rather, presumes that race is essentially a genetic or physiological entity. The logic of this presupposition is that race relations are normally apolitical and socially irrelevant when they are good and socially and politically relevant only because they are bad.

In this regard, the *BROWN* decision confirms the *PLESSY* conclusion that law and the 14th Amendment could not have as their objective "to abolish distinction based upon color." Now, almost a hundred years later, government accepts no responsibility for such distinctions. In its reference to the negative effects of "commingling of the two races," *PLESSY* indicates that the boundary condition for any political action (distinction) on race is simple (physical)

² *BROWN V. BOARD OF EDUCATION OF TOPEKA, KANSAS* 349 U.S. 294 (1955). See Joseph Tussman, ed., *The Supreme Court on Racial Discrimination* (New York: Oxford University Press, 1963), p. 45.

interracial contact. BROWN, on the other hand, admits to a customary connection between race and sociopsychological factors in its reference to "the hearts and minds" of school children. The admission that feelings may normally accompany racial identification, however, does not involve a conceptual or principled statement about racial distinctions. It simply refers to the environmental conditions, meaning other inequities, under which race relations may occur.

The public policy legacy of this persistent physiological concept of race is evident in the numerous laws, particularly state laws, and policies dealing with "racial balance." Like many physical objects, race relations have been submitted to the kind of weights and measures system typically used to distribute material goods. For example, the Massachusetts Racial Imbalance Law of 1965 affirms the quantifiability of the policy outcomes to be sought from improved race relations as follows:

...racial imbalance shall be deemed to exist when the percent of non-white students in any public school is in excess of fifty percent of the total number of students in such school.³

This law, like the PLESSY ruling, reduces race relations to fractions or degrees of physical contact. PLESSY, the plaintiff, was referred to as "one-eighth negro" -- a fraction with more influence than size but a fraction nonetheless. Race, therefore, was seen as an individual characteristic. The Imbalance Law treats race relations as judgeable through numerical standards. In so doing, it focuses on the school building, meaning another social institution, but not on the school's relevance to these relations. Yet, the policy treatment, as well as the targets of the treatment, the racial groups, are still treated as a collection of individuals. The concept remains perfectly individualistic and the process surrounding it implies that each individual, and not the school or the society, is solely responsible for the racial distinction he or she brings to the school. The courts, consequently, have sought primarily to deal with the distribution of the distinction and the frequency of its concentration on the supposition that race relations would somehow be favorably affected by its redistribution. Yet, the quality and content of race relations, as we shall see, has generally escaped judicial attention.

As a guiding principle for American public policy, therefore, BROWN bequeathed conflicting messages to policy makers. Its reformist message was clearly that government must undo the "racism" it had helped to propagate throughout society. It was unclear, however, what that racism might involve beyond segregation. As a result, the conflictual legacy of PLESSY sublimated in the BROWN decision was to become a serious problem for public policy. In sum,

³ Massachusetts General Laws, Ch. 71 (1965) No. 37 D. See Norman Dorsen, Discrimination and Civil Rights, (Boston: Little, Brown & Co., 1969).

the subliminal legacy had two distinct components. First, race is simply physical at base; it is regrettably social but not, in essence, political. Second, ideal race relations are those which are free of government intervention.

It took a while, about a generation, but this legacy finally resurfaced in the judicial process in the landmark BAKKE case (1978).⁴ In the BAKKE decision, the Court asked the University of California Regents if their school had been guilty of prior segregation and/or discrimination. Not surprisingly, the school authorities responded: no; and the Court effectively said: that's just fine, then you can leave race in its proper place - a place beyond your reach. The Court added, however, that the school could involve race (e.g. the social factor) as long as it did not do so in the name of public or governmental authority. Race-consciousness was, therefore, to be grounded either in public compensation for past sins of discrimination or in private initiative for private or social purposes.

Similarly, the prescriptions for public policy provided by the Court are threefold. First, ignore race itself to the extent that race is purely physical in nature. Second, redress the social inequities involving race where they have governmental implications, but ignore these inequities where they are apolitical. Third, remain indifferent to all inequality which may emerge without government intervention. Subsequently, conflict has emerged most strongly over the meaning of the relationship and the interpenetration of racial differentiation and social inequities. For social inequities in education, employment and housing, policy makers, like litigators, have argued that inequality among blacks and whites is as acceptable, if not as good, for blacks as it is for poor and wealthy whites. They have disagreed over the extent of racial bias for which government might be held accountable and on which it might have a corrective impact. This disagreement has more to do with the power and potential of government than with its moral obligations. Most often, therefore, the results of litigation have been clearer where the reach of the social aspect is defined by past discriminatory experience in order to elicit direct public action. Absent a clear race-specific record in litigation, policy prescriptions have directed real implementation and real value-choices to the private sector while leaving the role of government in ambiguity. Here, for example, is the clear consistency between the BAKKE and WEBER (1979) cases. BAKKE seemed to restrict race-consciousness and to limit affirmative action while the WEBER decision seemed to promote both of them. Yet, these cases share the common ground of attributing race-specific action and real policy implementation to the private sector. Higher education, almost as much as private industry, though publicly financed in the BAKKE instance, has traditionally retained independent and privileged authority in the areas of admissions and scholarship evaluation. The Court's recurrent reference to

⁴ REGENTS OF THE UNIVERSITY OF CALIFORNIA V. BAKKE, 438 U.S. 265 (1978).

established and acceptable university practices in admissions helped to affirm that standard.

The ambiguities remaining for policy makers concern both race and the social inequality historically and judicially linked to it. Understandably, policymakers and legislators have focused on resolving the latter ambiguity -- that of race-related social inequality. With a more philosophical bent than what is normally condoned in American political culture, they might have sought to return to the primary question of race itself in order to understand the linkage. Instead, they followed the path of a pragmatic culture and sought to find and act on inequality without assessing its roots. Unfortunately, the primary focus on socially recognizable inequality is deceptive (at least as the court has presented it). It is deceptive because such inequality can only be recognized through its non-racial parameters. A situation is inequitable between blacks and whites only because it is inequitable among whites. In other words, it is socially unacceptable because the dominant society (whites) has experienced such a situation as inequitable.

At base, it is an epistemological deception, first, because the policy maker assumes that any inequality to be addressed exists without regard to race. Second, and more profound, the standards for equality must be found among the established unequal relationships in white society. Third, the guidelines or criteria for rectifying an admitted racial inequality must not upset the customary relationships among whites. Ultimately, it is deceptive because the unconscious subject or focal point for judging inequality in the process of policy implementation becomes whites rather than blacks.

In practice the question of how this process of admissions or employment unfair to blacks is subliminally restructured. It becomes: how is or would this process be unfair to whites? In its original form, the legislator or policymaker must then explain the concept of unfairness in universal language, meaning that the measure should be one that whites can accept on their own experience. If the explanation is bifurcated to allow for the possibility that blacks are so special or unique that no explanation across the races can uniformly apply to both, then all public policy comes to a halt. Instantly, the issue is treated as one of private action beyond the public sphere because it is race-specific. Race-specificity has been effectively defined by BROWN as beyond the range of public action except as compensation for previous race-specificity. After all, the goal of the modern courts has been to treat blacks like everyone else. Therefore, a judicially recognized point of inequality between blacks and whites must ultimately be defined in terms of an inequality among whites only, except in cases of compensation.

Still, the notion of race-specific compensation leaves open a broad parameter of public action. It raises the primary ambiguity involving the physical concept of race to a public policy dilemma. The dilemma has been superficially confronted through statistical measures of racial parity and "equality" of results as with school enrollment data. In large part, however, it has been evaded by once again refocusing policymaking on whites rather than

blacks. Theoretically, compensatory practices would address the "socio-psychological harm" which blacks have experienced. In practice, however, it is easier and more politically manageable to address the presumed instruments of harm. Accordingly, where educational discrimination has harmed blacks, one can focus on the harm or on the discriminatory structures. For schools, the courts and policy makers have, therefore, focused on the administration of schools and its redistribution of students rather than on the substantive educational harm and corresponding pedagogical remedies. The practical policy impact is, thus, to look first at what education administration is among whites and then to seek to bring blacks into that same form of administration.

The object of education policy then, whether it is busing or special admissions, is to prevent blacks from having a race-specific education. At first glance, this might appear to be a race neutral approach but only if one assumes that behind the long segregated white school doors nothing specifically white was done. In fact, such a presupposition is consistent with the race as physical concept. Moreover, it is conducive to measuring disadvantage for blacks as their degree of distance from the institutional environment of whites. As we shall see shortly, affirmative action programs are frequently no less of an affirmation of the virtues of traditionally white institutions and practices. First, a look at the race related concepts in these traditions should be useful.

II. Constitutional Law And Race Specificity

A perusal of federal laws on racial issues will show either that blacks as a racial group have not been a subject of a legal issue or that they constitute such a sensitive issue that any reference to them is virtually taboo. At least ninety percent of all legislative references to black American status or issues fail to mention blacks directly in their legal prescriptions. At most, a direct reference may occur as an example of a problem but not as a primary component of the problem. Even more scarce in terms of legal prescriptions (no exceptions are evident) and more clearly taboo is direct reference to "whites." It is as if the American individualistic tradition prohibits direct legislative statements for or about a racial group even though the intent of the legislation's initiators may be clearly race-specific. There is, perhaps, a tradition of self-deception here, a special kind of "moral dilemma" in Gunnar Myrdal's terms.⁵

In some sense, racially specific language may be difficult to reconcile with the broad constitutional applications often anticipated in civil rights. Law and regulation work most effectively when their objects are defined by legal/illegal behavior (eg. discriminatory housing sales) rather than by the description of its normal subjects. Whatever the legal writing constraints on identifying blacks directly, there is a political constraint at least as determinant. It involves the cultural predilection to attribute legislative

⁵ Myrdal, Gunnar. *An American Dilemma* (New York: Harper & Row, 1944).

authority, sanction and/or benefits, only to individuals who, by definition, are individually and uniformly responsible before the law.

This cultural predilection shows itself in the nation's origin when the Declaration of Independence links "life, liberty and the pursuit of happiness." Only individuals can hold and exercise liberty and only individuals may pursue happiness as it was then understood. That understanding was indisputably translated by John Locke who argued for life, liberty and "property."⁶ In a capitalist society only individuals (or private collections of them) can hold property for capitalistic purposes.

The conceptual constraint this cultural norm poses for racial awareness is evident in the Constitution's indirect references to the black condition. The most prominent of these is "the three-fifths" compromise which permits electoral representation of slave holders on a numerical basis by counting slaves owned as three-fifths of a person. An understandable but unfortunate misinterpretation of the clause is that it is often thought to "define" blacks as three-fifths of a person. On the contrary, the clause is only marginally relevant to blacks in its intent though significant in its effect. It decrees:

Representatives and direct taxes shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons.⁷

Although relevant to blacks, the clause primarily defines inegalitarian relationships among whites in the electoral structure. In fact, its principal relevance to blacks depends on the proposition of inequality among whites in the representative process. Namely, some forms of property determine a voter's importance in the selection of representatives. Here, the critical distinction between whites as property holders and the poor is clarified by the reference to indentured servants. There can be no doubt that being white has a Constitutional value in itself.

Of course, the prior conflicts between North and South may have necessitated a special deference to plantation property values in order to stabilize the union. What that historical link says about race and the state should not be overlooked. At minimum, it indicates that the sublimation of racial identification was consistent with other national, political, and economic compromises. The ability to specify black and white was contingent on the nation's ability to confront the divisive concepts of property rights

⁶ Moore, John A. and Myron Roberts, The Pursuit of Happiness, Third Edition (New York: Macmillan Publishing, 1985), p. 47.

⁷ United States Constitution, Article I, Section II.

among whites. For better or worse, that confrontation was postponed until the Civil War.

Along with that confrontation came a fleeting consciousness of race and political structure. Race and racism, however, once more escaped explication in the law. The Reconstruction Amendments to the Constitution, the 13th, 14th and 15th, recognized the complicitous role of American law in controlling racial inequality. Yet, the law was presented as the cure, the savior from an ill-conceived social system that was now being reined in by the rational force of law.

The greater race consciousness emerges with the end of Reconstruction through the Compromise of 1877 and the reinstitutionalization of legally supported racism. In this compromise, the North came to terms with the South on ending its military occupation and on electing the next president.⁸ More significant, they came to terms on the role of race in national politics. Henceforth, racial issues were to be excluded from interparty politics. By excluding black concerns and black party officials from Northern support, both parties effectively labelled racial issues as too ideologically disruptive to conform to the developing two-party system -- a system heavily dependent on fundamental ideological consensus.

The early voting rights successes against the most blatant discriminatory practices illustrate a desire to escape from race consciousness. The fight against the "grandfather clause," manifested in *GUINN v. U.S.* (1915) appears to show commitment to blacks who had been denied the franchise on the bogus criterion that their grandfather had not voted (during slavery).⁹ Given the host of existing and developing discriminatory tactics at the time, the rejection of the clause is more directly attributable to the blatancy of its racial component than to the quality of racial bias. The poll tax and the literacy test, for example, persisted with legal protection for another fifty years.

What was blatantly racial about this clause may be called "individual racism." Individual racism explicitly specifies a racial group for adverse treatment. The grandfather clause did that and more. It not only singled out blacks, it singled out whites. It specified being white in almost explicit terms as a basis for the right to vote. It was this latter race consciousness -- the consciousness of being white -- that was particularly repulsive to a judicial system accustomed to universalistic concepts. The denial of rights to blacks would thus have to hinge on some "individualistic" failure or deficiency of blacks, and not on the narrow race-conscious privilege of whites because, in part, it insulted whites.

⁸ Franklin, John Hope. *From Slavery to Freedom*, Third Edition (New York, Vintage Books, 1969) pp. 324-32. See also Lorenzo Morris, ed., *The Social and Political Implications of the 1984 Jesse Jackson Presidential Campaign* (New York: Praeger, 1990). Chap. 4.

⁹ *GUINN v. UNITED STATES*, 238 U.S. 347 (1915). See U.S. Commission on Civil Rights, *Political Participation* (Washington, D.C: U.S. G.P.O., 1968) p.6.

In order to institutionalize racism, it was necessary to deinstitutionalize race. In order to make racism legally and politically viable, race itself became a legal and political non-entity. In a related manner, Derek Bell observes of the 14th Amendment's equal protection clause that protection of rights is individualistic:

The guarantees of the Fourteenth Amendment extend to all persons . . . The guarantee of equal protection cannot mean one thing when applied to one individual and something else when applied to a person of a different color.¹⁰

Accordingly, the assumption of individual equality of rights among whites may well have required that any racially directed denial of rights be couched in individualistic dogma. In particular, equal protection of the laws was conceived as applying only to individuals (and incorporations of individuals) and not to racial groups

III. The Physical And Social Character Of Race

The great contribution of the BROWN case to the legal analysis of race was its groundbreaking recognition that racial inequality was socially and politically determined. By using socio-psychological data in the articulation of its ruling, the Court effectively recognized that equal protection had relevance beyond the individual. In this and subsequent civil rights cases, e.g. HOBSON v. HANSEN (1967), the courts recognized that the pursuit of equity through public action required a recognition of the social and racial network in which people live.¹¹ In so doing, it made an important adjustment to the individualistic ethic by admitting that individuals did not have to be individually oppressed for inequality to exist. The courts did not, however, admit that government could be responsible for this wholistic non-individualistic repression.

An outstanding example is the Court's interpretation of Kenneth Clark's data in the "black dolls" experiment cited in BROWN. The experimental findings show that black elementary school girls, like the white ones, had a preference for white dolls. The conclusion was that such a preference by blacks indicates a negative self-image presumably promoted by segregation. The kind

¹⁰ Bell, Derek, *Civil Rights-Leading Cases* (Boston: Little, Brown & Co., 1980) p. 433.

¹¹ Cases examining the racial impact of homogeneous grouping (tracking) have suggested that individual attainment cannot be fully measured without substantial reference to the social context at several levels. In HOBSON v. HANSEN, 269 F. Supp. 401 (D.D.C. 1967), Judge J. Skelley Wright concluded: "Racially and socially homogenous schools damage the minds and spirit of all children who attend them. . ."

of legal redress that the Court deemed appropriate indicates more of a social than political conception of race relations. Schools were told to desegregate but the implementation of that order was to be as private and remote from federal governance as possible. No public accounting for the psychological remediation of these or any little black girls was ever planned. Although the states controlled, the desegregation policy was effectively non-public or quasi-private in implementation. A more public and politically accountable interpretation of the findings would have called for race conscious redistribution of educational authority, e.g. community control. Obviously, such a decision would have raised questions about equal protection, but it would still have been more consistent with the historical government role in education. That role has been historically focused on the administration and financing of education and not on its substance or pedagogy. In fact, the unwillingness of the federal government to follow its school desegregation orders to the point of educational impact may have led to the crisis over busing in the 1970s and to the turn against busing in the 1980s. Perhaps, more to the point of showing the privatization standard in the Court's approach, it produced no procedures for ever determining how or whether the self-esteem of those black girls or any others would be affected by its desegregation order.

The same issue emerged in a vastly transformed political context at the end of 1990, when a Department of Education official, Michael Williams, asserted that "minority-only" scholarships would be deemed in violation of the law by the department. In seeking to mitigate the maelstrom of protest that ensued, President Bush had the department reinterpret its declaration to permit "privately funded" minority scholarships. Since the justification for the original order was the presumption of (reverse) discrimination, apparently private discrimination was not considered a governmental responsibility. Right or wrong in its legal interpretation, the Bush administration evidently saw nothing in civil rights law that required governmental responsibility for racial inequality per se. Before the Williams order, no public effort was made to assure that progress toward racial equality with whites for blacks was being made by this administration. Under the order, the whole question of racial inequality was removed a step further from public scrutiny. The only remaining public obligation for scholarship claimed by the administration involved the assurance of "merit" standards with some deference to financial need. Merit, like financial status, of course, has long been approached as an individual attribute in our individualistic tradition.

A brief contrast of the affirmative action cases of the seventies and eighties can illustrate the artificial distinction made between merit-based policies and race-specific policies. In the *BAKKE* case, the claim of reverse discrimination was upheld, in large part because Allan Bakke had received higher standardized test and school generated scores than minority students in the University of California-Davis Medical School Special Admissions Program. Almost forgotten in the ensuing public debate was the fact that both parties to the case had stipulated before the California Supreme Court that

Bakke's merit was not to be disputed. In other words, an essential conflict between race and merit could be assumed to exist and yet be beyond governmental concern. If, for example, there had been demonstrable cultural bias in the testing or other scores, the courts would have had to ignore it. Race and merit were to be treated as politically external and, in this case, competing quasi-social and physical entities. Only the consciousness or awareness of race in school policy was subject to adjudication. That active consciousness would have to be assuaged by the guilt of prior discrimination or justified by some social and educational interest. Race consciousness in this case replaced discrimination as the link of race to normal social and political function.

If race and merit were to be treated as socially and politically determined qualities, then they could obviously overlap. No longer could the cross-racial neutrality of tests generated without regard to blacks be taken for granted. Merit, individualistically treated through the early stipulation before the court, became the social goal. The affirmation of that goal -- really a private standard -- became the object of the judicial intervention. Race consciousness would thus be judged as consistent or inconsistent with that goal. Race consciousness became the politically relevant aspect of race relations and not racial inequality. Unfortunately, there was no judgment on merit consciousness.

In effect, the application of the equal protection clause was directed toward maintaining the artificial dichotomy between race and merit. It is artificial because it was never examined by the litigants. Instead, the social neutrality of race was presupposed. Among other things, the sanctity of merit standards from race relations could only be questioned by risking the overall sanctity of merit. If admissions standards for blacks lose their objective image, then the question of inequality in judgments among whites is immediate. Only a race-specific standard for public policy that takes into account broad areas of social distribution would not also disrupt public policy for whites.

IV. Compensation and Disadvantage

When affirmative action was first formally proposed by President Lyndon Johnson in 1968 (Executive Order 11246), the potential for a race-specific interpretation was there in the suggested adherence to goals for racial inclusion. Instead, the media emphasis on compensation for past discrimination became more prominent, except where goals were the focus of attack. The focus of compensatory racial policy inevitably turns to prevailing standards among White Americans. Of course, for such standards no one wants to be race-specific. That would require specifying in historical form the characteristics and acquisitions of society attributable to its exploitation of blacks. To pursue this line of analysis would, in turn, provide grounds for socially disruptive claims on much acquired individual property among whites. Again, the constitutionally sanctioned integrity of private property over group rights for blacks has never been repudiated. Only individual rights have standing before the courts.

Accordingly, the dilemma of group identity and claims for black individuals remain unresolved.

A society without popular myths is a society on the verge of civil war, or so it seems with our myths about race relations. One of the more popular myths to cling onto the political arena without a shred of intellectual backing concerns historical compensation. It is encapsulated in the statement that "we and our property have nothing to do with the racism and exploitation of our grandparents." Yet, only two normal lifetimes ago, this was a slave society. Only 35 years ago, segregation was the law of the land. Quite obviously, employment conditions such as old-boys networks and apprenticeships would not be old if they did not go that far back. And yet, these are the defining characteristics of institutional racism.¹²

What is a realistic function of political power is that white beneficiaries of historical inequality cannot be held responsible for the full material amount of their benefit. As a consequence, the courts have turned to looking at "disparate treatment" instead of compensation. More precisely, the courts were once willing to consider, as evidence of continuing discrimination, cases showing that employers' practices had a "disparate impact" on blacks. The Supreme Court's rejection of employee testing that shows a statistically large bias against blacks in terms of results was a step toward legitimating the racial group as politically and legally recognizable (GRIGGS).¹³ The focus on impact, however, proved to demand too much of a focus on blacks. Consequently, the courts' recourse to disparate treatment was more consistent with society's aversion to race specificity. The race focus is still present, but now the primary subjects are whites. It is a focus which looks at blacks only to ask how they may not be treated like whites.

Of course, other social factors work against judicial reliance on impact standards as illustrated in the voting rights cases where the issue was between "intent" versus statistically demonstrable impact. In the BOLDEN case (1980), the plaintiff wanted at-large elections declared in violation of the Voting Rights Act. The system of at-large elections for city council, it was argued, effectively prevented blacks from winning elected office.¹⁴ Evidently, the Court felt that the individual prejudices of white voters against black candidates were perfectly consistent with equal protection as long as they were not implemented or mobilized by public authority. To be found in violation, therefore, one must show that the voting procedure was primarily and originally intended to discriminate by public authorities. The fact that many

¹² Barnett, Marguerite and James Hefner, Public Policy for the Black Community (New York: Alfred Publishing, 1976), p. 7.

¹³ GRIGGS V. DUKE POWER CO., 401 U.S. 424 (1971). Derrick A. Bell, Race Racism and American Law (Boston: Little, Brown & Co., 1973) p. 759.

¹⁴ Davidson, Chandler, "An Overview," Minority Vote Dilution (Washington, D.C.: Howard University Press, 1984), p. 17-18.

such procedures have their origin in the post-Reconstruction backlash against blacks has yet to have its full judicial recognition.

Intent standards, like disparate treatment standards, return whites to center stage if only unconsciously. Ironically, intent standards should owe something to the precedent setting use of sociopsychological data in the 1954 BROWN decision. Still, such data, along with most evidence of intent, are virtually impossible to mount before the courts in the absence of name-calling, Klan-like bigotry.

Disparate treatment places the normal treatment of whites in the position of an ideal standard. If the admissions standard or employment practice is fair to whites, as individuals, then it is presumed to be fair to all blacks. If, for example, the employment test does not draw on some group characteristic of white applicants (e.g. recite the pledge of the White Citizen's Council), then it is legitimate for blacks as well. Hence, a test that discriminates among whites is good for blacks and whites, it is assumed.

One of the problems here for blacks is that minor inequities among whites may turn into gross inequities for blacks and still go unnoticed. There is really no way to tell because the primary standard or yardstick of bias remains within white society. Accordingly, the recent Supreme Court ruling in WARDS COVE requires plaintiffs against discriminatory practices to prove that the practices were directed against them as an outside group.¹⁵ In other words, blacks are required to give evidence of how whites perceive themselves as an inclusive racial group in order to prove that they are being exclusive. That naively assumes that white racism depends on white race self-consciousness.

V. Legislative Language and Race

As the preceding observations on the courts' interpretation of race as a subject of law should have suggested, race has unclear standing in American law. In the host of federal and state civil and voting rights laws, blacks are mentioned primarily as examples of the range of enforcement subjects. Most frequently, race is a negative example as in the statement "without regard to race, creed or national origin." Occasionally, it becomes the measure of effective policy implementation. Where racial parity is sought and where affirmative action goals or quotas are used, race has ambiguous standing. In these cases, for instance school busing, racial group distribution appears to be the primary object of the legislation when, in fact, it is not. The legislation is always concerned with rights and the equitable protection of them. In order to assure that education policy, for example, complies with non-racial equal protection, a race focused parameter is applied by law. Similarly, with affirmative action goals and quotas, the real object of policy is the compensation for or the removal of racial bias from the public policy sector.

¹⁵ WARDS COVE V. ATONIO, 109 S. Ct. 2115 (1989). Michael W. Sculnick, "Key Court Cases," *Employment Relations Today* (Autumn 1989) p. 238.

Race focused interests have themselves been the primary object of legislation but then those interests are always distilled or disguised to emphasize their most universal component. For example, Title III of the Higher Education Act of 1965 was clearly intended by its authors to channel federal subsidies to traditionally black colleges and universities. Yet, Title III was named the "Developing Institutions" act in order to give the impression to the uninformed that any new struggling college would be eligible for such subsidies. In fact, since the end of the 1970s, the vast majority of benefitting institutions have been traditionally white ones.¹⁶ The disguise was a concession to anti-race-conscious political sentiment rather than to legal constraints. Virtually all the Congressional supporters knew what the act intended; they simply did not want to commit themselves to it in principle.¹⁷ The colors of their real sentiments were later shown when the benefits were redirected to two-year white colleges and the newer four-year colleges.

In this regard, William Julius Wilson, an apostle of the thesis that "racial differences are dissolving into class differences," makes a questionable assumption by arguing that social welfare policies are always "race-neutral:"

After all, Americans across racial and class lines continue to be concerned about unemployment and job-security, declining real wages, escalating medical costs, the sharp decline in the quality of public education . . . crime and drug trafficking in their neighborhoods.¹⁸

Nothing in American law and public policy is, or ever has been, so race-specific that it is not also of interest of White Americans. In the rare cases where race-specific intentions have penetrated public authority, the language of the law, e.g. the 14th Amendment, has been manipulated to include white American interests.¹⁹ Where policies have been developed around a black political issue, the goals and structures of program implementation respond to White American interests. Affirmative action has not been judicially sustained where whites, as a group, are disadvantaged but only where whites appear to have "too much" advantage. Full employment policies, for example,

¹⁶ Blakey, William A. "Agenda for Excellence and Equity in Black Colleges and Universities," One-Third of a Nation Task Force Conference, Howard University (November 1989), p. 13.

¹⁷ Morris, Lorenzo, Elusive Equality: The Status of Black Americans in U.S. Higher Education (Washington, D.C.: Howard University Press, 1979), pp. 194-95.

¹⁸ Wilson, William Julius, "Race-Neutral Programs and the Democratic Coalition," The American Prospect, No. 1 (Spring 1990), p. 79.

¹⁹ Mack Jones argues that structures for enforcing civil and voting rights often serve to modify but otherwise fundamentally reinforce white dominance. See Mack Jones, "The Voting Rights Act. . .," in Franklin D. Jones and Michael Adams, Readings in American Political Issues (Dubuque, Iowa: Kendall Hunt Publishing, 1987).

could well exist without regard to blacks, although blacks are clearly in need of such policies. Conversely, if blacks were the originators and the primary focus of full employment policies, the language and structure of the resulting programs would inevitably be as race-neutral as possible. Historically, one can never expect race focused black politics to eventuate in race-specific legislation. Just as the equal protection clause is indebted to black politics, many social welfare programs have their origins in race conscious initiatives.

VI. The Neutralizing Tendency of Policy Formulation

Prominent among the surviving, though barely, race focused programs are minority set-asides. Clearly affirmed by the Supreme Court in 1980 as a form of compensation, they are now the constant target of hostile political and economic conservatives.²⁰ Almost immediately, these programs were expanded to include a variety of minority groups and women for whom the same kind of past discrimination would not be claimed. The speed with which other groups were included suggests the shortness of the lifespan of race focus in the public arena. More important, these set-asides structured black participation as peripheral to a white dominated economic center. More precisely, they provide for the satellite dependance of small minority contractors on more successful white contractors in the principal roles.

In the 1989 CROSON case the Supreme Court's rejection of set-asides as reverse discrimination demonstrates the elasticity of race specificity (to the extent it is present).²¹ The evidence in this case shows that blacks and other minorities continue to be grossly underrepresented in city contracting in Richmond, Virginia, but their underrepresentation was no longer the central issue. Rather, the white plaintiff argued that he was victimized because he had followed the rules while the set-aside contractor had had every chance and failed to meet the initial requirements. These requirements were set up to meet the city's contractual needs as guided by its assessment of the market place. In essence, therefore, set-asides were expected to help minorities accommodate the market place. In the end, which interest was primary? The success of the reverse discrimination claim indicates that the maintenance of the white dominated economic center was the ideal to which blacks were expected, with help, to adjust. If, as conceived by Congressman Parren Mitchell, it was the black business that counted most in the policy's implementation, it became just business.

The retreat from race specificity would be largely completed if it were not for continued public subsidy of traditionally black colleges and universities. Where, for example, set-aside programs have survived, they have done so only by diversifying their focus to include women and/or Hispanics. Even here, the

²⁰ FULLILOVE et al. V. KLUTZNICK et. al., 448 U.S. 448 (1980).

²¹ RICHMOND V. CROSON, 109 S. Ct. 706 (1989).

subsidies are justified as historical compensation rather than as race-specific policy. Yet, they are commonly thought of in the latter frame of reference.

The long series of court cases initiated in 1973 by the NAACP Legal Defense Fund against Southern state dual systems, the ADAMS cases, have not been able to confront the central issue: should government policies be race-specific? Rather, they have argued, in effect, that society is race conscious and divided and that government must take cognizance of these conditions while pursuing racial equality. Of course, the pursuit of racial equality without clear race specificity leads to a narrow approach to desegregation. Public colleges in the South, black ones and white ones, were accordingly subjected to a series of desegregation orders under the guidance of the Fifth District Court. By 1987 when the litigation was temporarily terminated, most public black institutions still existed, but all were moving, or claiming to be moving, toward desegregation.

Ironically, none of the black colleges had ever been guilty of seg-regating.²² Segregation, like discrimination, requires that the responsible actor have authority to exclude. Authority within these colleges applied almost exclusively to their educational and administrative content. Authority to exclude people on any non-academic basis was always lodged with the white controlled state boards. Thus, the reform of behavior intended had more to do with white officials than black educators. Yet, the greatest tangible impact was on the black ones whose schools were threatened with possible extinction.

The survival of black institutions should have brought to the surface of education policy and the legal arena the question of racial separation without segregation. After all, these black schools and their students cling firmly to their independence. Still, the question has never been more than peripheral to debate in policymaking and judicial arenas. Instead, the states initiated institutional programs to redistribute students by race in response to the court. Only a recourse to upholding educational traditions and respecting the special socioeconomic needs of students has preserved the black public institutions.

Given the judicial interpretations of equal protection since 1954, it is clear that the courts cannot endorse the public creation of racially separate institutions. Nor can any institutions be publicly subsidized where the subsidy serves, in the context of racial separation, to sustain a racial disadvantage. Still, a question remains about mutually acceptable and privately subsidized separation where substantive access to resources, e.g. schooling, is equally available interracially.

This question may be as much concerned with conceptualization as with policy. What is racially separate depends on the definition of race. Schools may select their programs, their scholarly orientation, and social support systems to appeal to students with specific interests. In the private sector,

²² Tollett, Kenneth S., Black Colleges as Instruments of Affirmative Action (Washington, D.C.: Howard University Institute for the Study of Educational Policy, 1982) pp. 41 and 54.

traditionally black schools do just that. The impression then that they are racially exclusive is less probable because of the "social" interests which the schools exist to propagate. The "physical" characteristic of the students in this case appears to be more coincidental. The tendency of the legal arena to treat race in purely physiological terms generates a greater ambiguity about separation.

If one returns to the BROWN case's reference to protecting "the hearts and minds" of students, the possibility of getting beyond the physiological surfaces. It emerges from the kind of race specificity in the sentiment expressed by the Court. This perspective, though not consistent, identifies race as an ephemeral, a social entity. In this concept the physical substratum is strong enough to elicit a physical and even numerical interpretation of desegregation wherever equal protection is affirmed. Yet, the response to "simple" racial separation should be guided by a concern for its sociopsychological and cultural significance of race relations.

In this perspective, a black college may be a vestige of segregation as a physical entity but a bulwark against it as a social and cultural entity. Accordingly, one would have to weigh the value of both aspects before attempting to destroy or transform these institutions. Concomitantly, one could no longer feel that physical desegregation serves the spirit of BROWN where a separate black cultural or social creation had emerged out of the segregated conditions.

Second, the social perspective on race also focuses directly on blacks. The vast majority of desegregation cases, it has been argued, have really focused on whites in terms of primary concepts. In contrast, the popular reaction to the ADAMS litigation has elevated blacks to a social and cultural entity with a life and desire for "liberties" of their own. As important, the desire to preserve black institutions has begun to raise consciousness of race as a legitimate political entity. In other words, society is not only composed of black and white individuals subject to governmental redistribution, it is also composed of social-racial groups which determine the character and life-chances of their constituent individuals. Government cannot independently act on all collections of individuals because race (among other social factors) makes the individual politically inaccessible, if not insignificant, when race is the subject of policy.

In some historical sense, the legitimate individual attributes have been effectively defined in American law and politics as "white" or rather as the commonly recognized attributes of individuals in the dominant society. Since the three-fifths compromise, the sanctity of the individual as a property holder and political actor has been tied to the denial of the racial and social foundations of that property. When political demands involving voting rights and civil rights have succeeded in court, it has been largely through the insinuation of numbers of black individuals into patterns of behavior primarily characteristic of White Americans. The rise of the black middle class is as much a result of the constraints of civil rights as it is a product of its success. Some critics want to blame middle class blacks as well as civil rights leaders

for not paying enough attention to the needs of the mass of blacks. While they could easily be deserving of some blame, the specific social objectives, meaning patterns of upper mobility, available to civil rights leaders were circumscribed by established social and political patterns in white society. Even where blacks are concerned, public policy should always be expected to resist disruption of white society. Admitting a few more into an individualistic and unequal system is far less disruptive than demanding that a subset of equality among blacks be created. After all, that demand would require race consciousness, and true race consciousness means race specificity.

VII. Conclusion : Fear of Being White and Latent Race Specificity

The majority of men resent and always have resented the idea of equality with most of their fellow men. This has had physical, economic and cultural reasons . . . especially I presume the cultural and spiritual desire to be one's self without interference from others; to enjoy the anarchy of the spirit which is inevitably the goal of all consciousness.²³

Embodied in the ideal self-concept of the true individualist is an unconfined and unattached, if not anarchic, ego which abhors self-categorization and group identification. Prime among the group pressures to be resented is the pressure to concede to racial identification. The truly naive individualist resents any other race with which regular interaction compels self-doubts and reflection on personal independence or social interdependence. The typical American individual resents the race consciousness of all others because it compels a consciousness of his or her own racial confines. Close encounters with racial differences force awareness of the social interdependence entailed in one's own racial identity. In brief, White Americans, as individuals, resent and always have resented black race consciousness because it forces them to admit that they are white, that their attainments are tied to their race and not just to themselves.

American public policy and lawmakers have always been concerned with race, but they have always been afraid to address it directly. Beginning with the political sensitivity surrounding the Constitutional issue of white people's (slave) property, no one could confront it directly without destabilizing the fragile union between North and South. In the end, the differing nature of property between North and South draws attention to group differences among whites and to the social, rather private, basis of property.

²³ DuBois, William E. B., *The Dusk of Dawn* (New York: Harcourt, Brace & World, 1968), p. 134.

The resistance to affirmative action has as much in common with these early concerns for property rights and social stability as it does with the 1960s civil rights reaction. Concessions to modern civil rights demands were conceptually fairly easy to make, first, because they conform to the ideas of individualism and non-racial universalism. Second, of course, the structure and control of property was left untouched. In this regard, the major political difference between the Constitutional issue and affirmative action debates is that the menace of instability is more visibly interracial in the latter case.

Whatever the factual basis may be, claims of reverse discrimination are to some degree heightened by the sense that other individual attainments were not really personal but social (also racial). Resistance to race conscious policies is an early expression of fear that greater inequalities (or differentiation) among whites are forthcoming. In a sense, it is a fear of being white, first; it is a desire to be a better self creation than others who were also "created" white.

Whenever a public agency has been challenged on the racial content of policies, its response has tended to be race specific, but the direction that specificity has been disguised. When the issue of special treatment or discriminatory treatment of blacks has emerged, officials have sought a universal standard for comparison. If the redress proposed involves a simple civil rights extension or retrenchment from affirmative action, then the resolution has an individualistic character. Behind the standard guiding decisions has always been a fairly uncritical acceptance of the characteristic patterns of behavior in white society. While concerned with the black community, the unconscious focus of race specific politics has been the white community.

Ultimately, the resistance to race specificity in American law and public policy is grounded in an unwillingness to expose patterns of distribution to public scrutiny detached from traditional values. It is an unwillingness to confront, all in one sweep, the diverse groundrules on which American inequalities in attainment and wealth are justified. In sum, it is a fear of confronting the intricacies of white inequality.

NEEDED: BUSINESSES COMMITTED TO WELFARE-TO-WORK PROGRAMS

*Susan M. Tinsley*¹

Introduction/Overview

Studies from the 1980s have revealed that welfare-to-work programs can be successful (Blank, 1992; Burtless, 1992). The conditions for success, however, are not always evident from available research. We must expand our analyses to determine the conditions which produce successful employment programs.

It is important to examine the commitment that area businesses have to welfare-to-work programs since they are a major component of any attempt to reduce welfare dependency and promote self-sufficiency. The receptivity of area businesses to these programs, for example, is an under-studied but crucial variable. If area businesses are not willing to participate in on-the-job training programs or recognize welfare-to-work participants as qualified for employment, then the participant's journey to self-sufficiency will come to a brutal halt. In short, in order to be effective, welfare-to-work programs must be able to depend on the business community for support. Without positive involvement from the business community, the primary goal of welfare-to-work programs will never be fulfilled.

This paper examines the commitment of area businesses in Roanoke, VA to the recently enacted Job Opportunities and Basic Skills (JOBS) program of the Family Support Act of 1988. These findings suggest the commitment to JOBS from area businesses needs to be substantially improved in at least one locality. If generalizable to other communities, this suggests a significant obstacle in the transition from welfare dependency to self-sufficiency.

The extensive recent research on welfare caseload dynamics (Bane and Ellwood, 1986; Ellwood, 1986; Pavetti, 1992) provides a critical background for understanding past studies and determining the most effective ways to design and target welfare-to-work programs.

Past research has consistently identified several key contextual factors that influence the length of welfare dependency (Bane, et.al., 1983). Gueron and Pauly identify these factors:

- 1) Labor Market Conditions and Area Characteristics
- 2) Characteristics of the AFDC Program

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- 3) Existing Community, Employment and Training Services
- 4) Existing Community Support Services
- 5) Characteristics of the AFDC Population

However, their list is inadequate in that it ignores the important contributions of the business community. The thesis of this paper is that the characteristics of the business community and its hiring practices need to be considered as factors that influence the length of welfare dependency. Businesses hold the "pot of gold" that will reduce welfare dependency: employment.

Although labor market conditions influence the characteristics of the welfare caseload, results in sites with a range of unemployment levels and other labor market characteristics suggest that welfare-to-work programs can have impact regardless of the economic context (Gueron and Pauly, 1991, p. 47). Focusing primarily on labor market conditions may overlook the important need for a strong commitment from business in supporting the leap from welfare to work.

The Important Role of Area Businesses

Liberals and conservatives disagree about the appropriate relationship between welfare and work. Liberals tend to stress the failings of society or "the system:" suitable jobs are too few; pay and working conditions of available jobs are inadequate; recipients lack the education needed for a decent job; day-care and transportation difficulties preclude employment; and available jobs do not provide adequate health insurance. Conservatives tend to stress the behavioral deficiencies of the individual. They argue that the values of many welfare recipients are dysfunctional and that people will not work or get the necessary training and education unless there is a clear expectation for them to do so (Gueron and Pauly, 1991, p. 55).

The work-related portions of the Family Support Act reflect a mix of liberal and conservative approaches. The participation requirements and sanctions represent a conservative assumption, while the service provisions go in a more liberal direction (Cottingham and Ellwood, 1989, p. 10).

Regardless of the approach, a desire to work and the support services facilitating work are simply not enough. Before AFDC clients can join the work force, businesses must be willing to hire them. Previous researchers often stressed the importance of local labor markets and economic conditions, emphasizing such factors as differences in local labor markets and the nature of the locality (e.g. types of economy--declining, growing, stable). While all of this is important, the attitude of area businesses is a crucial factor in ultimate program success.

The purpose of JOBS is to provide education,
training, and employment opportunities to recipients

who receive AFDC so that they can obtain jobs and become economically self-sufficient. This goal cannot be achieved without the support and involvement of the business community. Although client services are critical to each individual's entry into employment, building employer awareness is necessary to generate and to sustain their acceptance and support of those programs. By keeping the business community in touch with the services provided by the programs, and their underlying precepts, employers' understanding of, and response to, the programs and their accomplishments can improve (Implementation of ESP/JOBS in Virginia, 1991, p. 13).

Overview of JOBS

JOBS replaces the Title IV-C Work Incentive Program (WIN) passed in 1967 with a newly expanded and consolidated welfare-to-work program. Through the influence of monies to states who follow federal guidelines, JOBS goes substantially beyond WIN in its emphasis on education, in extending a participation mandate to women with no children under age 3 (age 1 at state option), in instituting a school requirement for young custodial parents, in setting minimum participation standards, and in emphasizing service to potential long-term welfare recipients (GAO/HRD-91-106, 1991, p. 12). In general, JOBS reflects Congress' intent to address the problem of long-term dependency by tying federal monies to the targeted serving of those clients who face the most severe barriers to employment.

JOBS attempts to address long-term welfare dependency in an innovative manner. A state will incur a financial penalty that reduces its share of federal funding if it fails to serve a certain proportion of individuals in 1992 and spend at least 55 percent of its total JOBS funds each year on targeted groups identified as long-term or potential long-term AFDC recipients (GAO/HRD-91-106, 1991, p. 13).

Primary responsibility for JOBS rests with each state's welfare agency which was allowed to implement JOBS in July 1989 and required to do so by October 1990. JOBS had to be operational statewide by October 1992. In Virginia, the new provisions of JOBS were incorporated into the state's already established statewide welfare-to-work initiative called the Employment Services Program (ESP).

Methods

This paper examines the role of commitment from the business community to the JOBS program through a detailed investigation of one city. The case study approach allows a researcher to draw conclusions based on observation of a "real-world" environment. In order to establish whether or not there is

evidence of commitment to the JOBS program from area businesses, an in-depth understanding of their relationship to the program must be developed. A case study approach can be useful in evaluating the significance of business' relationships to a program like JOBS.

A case study approach is also appropriate where the subject under study is so new that little theory exists to provide a basis for precise predictions. This is clearly the situation here. The hiring practices of businesses and the relationship between businesses and the Department of Social Services are not clear. A case study examination of one locality allows us to examine the presence or absence of these relationships more carefully.

There are, of course, limitations to this approach. Conclusions drawn from case studies are usually suggestive rather than definitive:

The single project is the prisoner of its setting. The evaluation is confined to observing effects in one time and place, with a particular staff and target group in a specific agency, under the conditions of the moment. It is often hard to know how far the observed results can be generalized to other situations (Weiss, 1972, p. 77).

However, case studies are not unique in the study of welfare programs and their impacts. In its major dimensions, the experience of "being on welfare" appears to be remarkably the same nationwide (Chisman, 1992, p. iii). This suggests the findings, at a minimum, warrant further research involving more sites.

To aid in case selection, the "Satisfactory Participation Report" issued quarterly by the Commonwealth of Virginia was used to provide essential background information on the number of participants involved in JOBS. I selected the locality by using the following criteria: 1) existence of a large number of AFDC clients; 2) presence of significant numbers of clients who are part of JOBS "targeted" populations;² 3) areas currently serving a large percentage of these clients.³ For all localities in the Piedmont region that serve over 100 clients, Roanoke City has the highest percentage of participation (see Appendix A). These rates far exceed the participation

² At least 55 percent of JOBS funds must be spent on the following "targeted" populations: 1) AFDC recipients or applicants who have received AFDC for any 36 months out of the past 5 years, 2) AFDC parents under the age of 24 who (a) have not completed high school, (b) are not enrolled in high school (or the equivalent) or (c) had little or no work experience in the preceding year; 3) Members of AFDC families in which the youngest child will in 2 years be old enough to make the family ineligible for aid.

³ Participation requirements for federal fiscal years 1990-91: 7 percent of those required to participate must average 20 hours in activities a week; this rises to 11 percent in 1992-93, 15 percent in 1994, and 20 percent in 1995.

requirements of 1995. These criteria allow examination of a locality that is at least "up and running" with JOBS.

Of those eligible for JOBS in Roanoke City, 89.8 percent are female; 10.2 percent are male. For the same area, 53.7 percent are black; 45.6 percent are white. In Virginia, of those eligible for JOBS, 95 percent are female, 5 percent are male; 62 percent are black, 36 percent are white.⁴

Roanoke City (the area served by the Roanoke City Department of Social Services) has a population of 96,397. The Metropolitan Statistical Area has a population of 224,477. Historically, Roanoke's economic base has been dominated by the railroad industry. Presently, however, Roanoke's economic base is much more diverse. Major employers (in addition to the railroad) include strong representation in tele-communication centers, health care, a mail-order center and retail stores.⁵

I used questionnaires sent to the personnel office of all the major employers of the Roanoke Valley to examine the commitment from area businesses to the JOBS program. The purpose of the survey was to explore the commitment major employers have to the JOBS program by investigating their involvement with Job Training Partnership Act Office (JTPA), Private Industry Council (PIC), and the Targeted Job Tax Credit (TJTC).

Seventy-six businesses were selected. These businesses currently employ at least 200 people each and are recognized as the area's major employers.⁶ Approximately 60% (46) of these businesses returned the survey. Appendix B contains a copy of the survey instrument.

Conceptualization of Commitment

Level of commitment *refers to the degree to which an employer has invested in making the JOBS program successful.* Commitment means accepting responsibility for the implementation of JOBS and making appropriate changes in organizational structure or procedures to fulfill that responsibility. Commitment will be treated conceptually as an ordinal variable ranging from low to high. Commitment refers to the extent of involvement area businesses have to JOBS and whether this involvement is of a proactive or reactive nature. For example, a business that instigated a relationship with JTPA to hire JOBS clients is considered proactive. A business that responds positively to a request of involvement from JTPA is considered reactive.

⁴ Information provided by Ron Barcikowski, Employment Services Program Specialist, Virginia Department of Social Services. Roanoke City percentages are from 10/90 - 03/93; Virginia percentages are from 10/90 - 06/92.

⁵ Information provided by the Roanoke Chamber of Commerce and the Roanoke Valley Economic Development Partnership, May 1992.

⁶ Information provided by the Roanoke Chamber of Commerce.

Indicators of Commitment from Businesses

The indicators used to assist in determining the level of business commitment to JOBS must consider the following.

First, the Roanoke Department of Social Services is not directly involved with establishing the relationship with area businesses. Although the department of social services and the local JTPA are supposed to work together in coordinating business involvement, the Department of Social Services has very little direct interaction with members of the business community.⁷ Two of the JTPA's main goals for 1991 were to increase business and industry's involvement in providing employment and training incentives and opportunities and to increase the number of businesses that support the JTPA program (Program Year 1991--Annual Plan, 1991, p. 2-3). In order to do this, JTPA relies on heavy marketing from local Private Industry Councils.

One of the functions of the local PIC is to market available programs to the local area businesses. These linkages to the private sector have resulted in an increase in businesses willingness to hire the JTPA participant, businesses willingness to coordinate special projects and businesses (many represented in the PIC) willing to promote JTPA's programs and services to other businesses, (Program Year 1991--Annual Plan, 1991, p. 3).

It is the JTPA and PIC that are most directly involved with sustaining a positive relationship with area businesses. In order to determine the level of commitment businesses have to the JOBS program, it is crucial to analyze the relationship major employers have to JTPA and PIC.

The local department of social services and the local JTPA office work on strategies and programs to increase the willingness of local businesses to hire JOBS participants. One of the major ways the local JTPA reaches the business community is to solicit the support of the PIC, which is composed of many prominent members of the business community. The agency hopes that these businesses will use their influence with other local businesses to secure support from businesses that are not members of the council.

Second, many employers may not know when they have hired someone who is a JOBS client. Thus, the commitment to the JOBS program must be assessed more indirectly.

Five indicators are used to determine the level of commitment from businesses to the JOBS program.

⁷ This was verified by the Roanoke Department of Social Services Supervisor and by the Director of the Local JTPA office in personal interviews.

1) **Being aware of the purpose and procedures of the JOBS program**--In order for major employers to be involved in the JOBS program and willing to hire JOBS participants, they must be aware of the program and its general purpose (Question 5 of the Employer Survey. See Appendix B).

2) **Being aware of and having positive involvement with the local JTPA office**--Since one of JTPA's main goals is to secure positive relationships with the business community, an important indicator of commitment to JOBS is the nature of involvement with the JTPA office. Questions 1, 2, 2A, 3, and 4 of the Employer Survey were used to assess this awareness (see Appendix B).

3) **Notifying the local JTPA office of available entry-level positions**--Given the general skills and education of most AFDC recipients, most qualify only for entry-level positions with the major employers in Roanoke. The commitment of area businesses was measured by examining whom they notified when entry-level positions become available (e.g., newspaper classifieds, Virginia Employment Commission). If notices are regularly sent to the JTPA office, this is some indication that a particular business does actively solicit applications from clients served by JTPA. This represents a potentially higher level of involvement with JOBS clients since it indicates that businesses are indeed encouraging applications from this clientele. Question 8 asks businesses whether they notify JTPA of job openings. (See Appendix B).

4) **Awareness of and Positive Involvement with PIC**--A majority of members on the PIC must be owners of business concerns, chief executive or chief operating officers of nongovernmental employers, or other private sector executives who have substantial management of policy responsibility⁸. Since JTPA relies heavily on influencing members of the PIC to support its employment programs, we can assume that an awareness of and positive involvement with the PIC from this business community is an important precondition for a commitment to JOBS. Questions 7, 7A, 7B, and 7C of the Employer Survey asked about the firm's relationship to the PIC. (See Appendix B).

5) **Hiring individuals who qualify for TJTC**--In the late 1970s, Congress added a provision to the internal revenue code that allowed employers to claim a tax credit for each employee falling into one of seven categories thought to be disadvantaged in the labor market. The intent of the targeted jobs tax credit (TJTC) was to encourage the private hiring of these disadvantaged persons

⁸ House and Senate conferees specifically stated their intent that private sector representatives on the PIC be influential business leaders in the community. Wherever possible, at least one-half of these representatives are to be from small businesses (including minority businesses) defined as for-profit firm with 500 or fewer employees. In addition, the business members must "reasonably represent" the industrial and demographic composition of the local business community. The PIC must also have representation from educational agencies, organized labor, rehabilitation agencies, community based organizations, economic development agencies and the public employment service, (National Alliance of Business, November 1, 1982, p. 10).

(Ripley and Franklin, 1986, p. 194). The seven categories include disadvantaged youth, veterans, low-income ex-offenders, handicapped, supplemental security income (SSI) recipients, welfare recipients, and students in co-operative education programs. Four of these categories have a maximum income qualification and, as a result, 70 percent of the individuals through whom Roanoke businesses receive the TJTC are AFDC recipients.⁹ Clearly, the majority of individuals through whom businesses receive the TJTC are also AFDC recipients. Thus, another route to commitment to the JOBS program would be the hiring of TJTC-eligible employees. Responses to questions 9, 9A, 9B, 9C and 10 describe the employer's experience with qualified individuals. (See Appendix B).

Findings

Table 1 presents the overall findings in regard to the nature and level of involvement of businesses to the JOBS program and other relevant actors.

Table 1: Percentage of Businesses with Certain Awareness and/or Hiring Trends

<u>Awareness and/or Hiring Trends of Businesses</u>	<u>%</u>
Are familiar with JOBS	45
Are aware of area JTPA	95
Considers their involvement with JTPA as average	34
Have <u>ever</u> provided on the job training to new employees	67
Of these responding positively. . .	
Have <u>never</u> used JTPA to assist in this training	70
Will probably maintain current level of involvement	56
Do not normally notify JTPA of available entry-level position	70
Are aware of PIC	60
Of those responding positively. . .	
Have ever been a member	22
Considers involvement as average or below	60
Have hired TJTC employees	65
Of those responding positively. . .	70
Found these employees to be average or above in ability	
Found these employees to be average or above in overall performance	77

1. Awareness of the purpose and procedures of JOBS

Of those businesses that responded to the survey, 45 percent indicated they were familiar with the JOBS program. This seems to be a relatively high

⁹ Information provided by the Virginia TJTC Coordinator.

level of awareness given the newness of the program, but it is significant that a majority of respondents were unaware of JOBS.

2. Awareness of and Positive Involvement with the local JTPA office

Ninety-five percent of the respondents were aware of JTPA. Comparing their firms to other major employers in the area, the majority of respondents (53 percent) reported that they considered themselves "less involved" or "much less involved" with JTPA than their counterparts. Thirty-four percent of the major employers reported an "average" level of involvement with JTPA. Only two respondents considered themselves "more involved" or "much more involved" with JTPA than other firms.

JTPA offers a free referral service to businesses with the guarantee that all individuals referred will meet the qualifications specified by the business in a job order. (This is an additional incentive for businesses to notify JTPA of available positions). Although 67 percent of the respondents acknowledged that they have had to provide additional on-the-job training to new employees, JTPA rarely assisted in that training. Seventy percent of those that provide additional on-the-job training have never used JTPA to assist in this training. Of those remaining, 25 percent of businesses indicated they have sought the assistance of JTPA from 1 to 24 percent of the time.

When employers were asked to describe their firms' probable future relationship with JTPA, 56 percent indicated that they would probably maintain their current level of involvement and 21 percent said they would probably increase their level of involvement. Only four respondents felt they would decrease their level of involvement with JTPA.

It appears that most respondents are aware of JTPA but consider themselves less involved with JTPA than their counterparts. Most of the respondents felt comfortable with their current level of involvement. Although respondents were not asked to provide additional information, the On-the-Job Training Program that JTPA offers does not appear to attract many employers. This suggests a low level of commitment to JOBS.

3. Notifying the local JTPA office of available entry-level positions

When the respondents were asked if their firm normally notified JTPA (either through mail, by telephone, or in person) of available entry-level positions, 70 percent indicated they did not. Only 22 percent of the major employers said they normally notified JTPA of available entry-level positions. This low percentage of employers notifying JTPA of available entry-level positions suggests a low commitment to hiring AFDC clients.

4. Awareness of and positive involvement with PIC

Most respondents (60 percent) were familiar with Roanoke's Private Industry Council. However, only 22 percent had ever been a member. Of those who had been or currently are members, most (60 percent) felt that their involvement was average or less than their counterparts. It also seems that the

membership on the council does not change drastically. Four of the ten businesses that acknowledged membership said they had been members since the inception of the council 12 years ago. Two indicated they were not sure although they indicated it had been a considerable amount of time. Only two of the ten indicated a membership term of two years or less.

Of the 78 percent that have never been members of the PIC, 42 percent indicated that this was because they have never been nominated for membership.¹⁰ Only one firm had been nominated for membership but declined the position.

These results suggest many area businesses are willing to become involved with PIC but have never had the opportunity. However, this low percentage of involvement with PIC may also reflect a low commitment to JOBS since these businesses may never be informed of the JOBS program or the importance of the involvement from the business community.

5. Hiring individuals who qualify for TJTC

Most respondents (65 percent) indicated that they have hired individuals who qualified for the Targeted Job Tax Credit. All of these employers rated TJTC employees as either "average" or "above average" in terms of ability and overall job performance. The majority (77 percent) rated these employees as "average" in terms of job performance (e.g., attitude, attendance, ability to get along with others), and almost as many (70 percent) rated these employees as "average" in overall job performance.

Although most businesses that had hired individuals who qualified for TJTC seemed pleased with the employees' performance and ability, only seven businesses reported hiring someone who qualifies for TJTC "very often" or "often" - 43 percent indicated they hire a TJTC employee "sometimes" and 33 percent indicated they "rarely" hire a TJTC employee. Almost all (96 percent) of those who have hired TJTC employees stated that their businesses hire the "best qualified" applicant, regardless of whether or not the applicant is TJTC eligible. One business reported it would hire someone slightly less qualified if the applicant was TJTC eligible. The infrequent hiring of a TJTC applicant indicates a low commitment to JOBS.

Analysis of Results

Currently, the major employers in the Roanoke Valley have a rather low commitment to the JOBS program as indicated by the relationships businesses

¹⁰ A special nominating process was included for PIC business members to ensure that they represent the local business community. "General purpose" business organizations--those who admit to membership any for-profit business in the service delivery area -- are to consult with other local business groups in putting together a single list of business nominations for PIC membership. Local elected officials must appoint PIC business members from the nomination list provided by these general purpose business organizations (National Alliance of Business, 1982, p. 10).

have with JTPA and PIC, and their hiring of TJTC applicants. It seems the relationship of most businesses to JTPA could be substantially improved. Although Roanoke Department of Social Services personnel speak very positively of JTPA, and the local JTPA office speaks eloquently of its involvement with the business community, this survey of members of the business community tells a different story. JTPA commends its OJT and applicant referrals programs, but the business community does not find them to be as strong. In written comments regarding their experience with JTPA, many business respondents elaborated on their low involvement with JTPA.

JTPA is somewhat of a laugh. They only get involved if we seek them out. I can hire 50 people off the street before they can turn up a single applicant (Questionnaire response--Business #27)

The JTPA often fails to "screen out" candidates lacking basic qualifications (Questionnaire response--Business #57)

As for involvement with the Private Industry Council, it appears these seats are rarely vacant. A careful look at the nomination process (see footnote #8) suggests that the PIC does not encourage new membership, and there is no limit to the number of years a firm may serve on the council. This process seems to offer some support for the earlier assertion by some community organizations that there is an established network that does not allow much room for outsiders.

It initially seems quite strange that although most businesses report positive relationships with TJTC employees, most hire them only sometimes or rarely. However, more careful examination reveals the TJTC has not historically been attractive to employers. Three reasons are normally cited for the negative view employers hold of TJTC. First, there is suspicion of government programs in general. Second, the credit is relatively small in size, and third, employers are unwilling to alter normal hiring practices to look for special categories of employees (Ripley and Franklin, 1986, p. 194).

The rather low commitment major employers in Roanoke have to JOBS is a serious problem for the program. With such a low commitment, the ultimate goals of JOBS or any other welfare-to-work program cannot be realized. As previously mentioned, businesses must be willing to hire JOBS participants. However, it is the responsibility of the local agency and JTPA to initially encourage their involvement with JOBS. Based on these findings, businesses appear to be on the sidelines of this major welfare reform. Due to the length of time JOBS has been implemented in Roanoke, rigorous efforts by the local agency and JTPA to involve the business community should already be in place. We cannot realistically expect any legislation that encourages self-sufficiency to be successful without the active cooperation of those who control the means

to gaining self-sufficiency. This analysis strongly suggests that a major flaw in the designing of the JOBS program is its failure to include sufficient incentives for business participation or mechanisms by which local social welfare agencies could encourage this involvement.

Recommendations

In order to increase the commitment of area businesses to JOBS, changes need to take place at the federal, state and local levels. Area businesses received virtually no attention in the language of the Family Support Act. William H. Kolberg, President and CEO of the National Alliance of Business, addressed the Subcommittee on Social Security and Family Policy of the Senate Finance Committee. In his statement, he recognized the need for a commitment from the private sector to the JOBS program and other anti-poverty legislation at the local level.

Because the demand for workers, the types of employers, the population to be served, and the resources available vary substantially across different areas of the state, the design and operation of employment and training services must take place at the local level . . . Employers are beginning to understand this problem, and are increasingly committed to doing something about it. Business interest in welfare reform is no longer based solely on the social good, but on economic necessity (Senate Hearing 100-320, p. 198, 202).

It appears that the role of local businesses was addressed to a certain extent in the subcommittee hearings but not in the Congressional floor debates, and there is no formal mention of securing a commitment from the private sector in the language of the JOBS program.

Congress should give muscle to the idea of better incorporating businesses into welfare-to-work programs. The best way to do this is for the federal government to use its power of influence through federal grants.

One of the functions the grant system performs is to enable the federal legislature to commit itself to serving very broad national purposes (such as "more adequate" welfare) without assuming the burden of making all of the political choices . . . (Derthick, 1970, p. 196).

In the case of welfare-to-work programs, federal grants give states the "excuse" to make experimental changes in current programs. Not only are monetary costs transferred to the federal level, but if opposition arises, state

officials may also be able to transfer political costs as well, by imputing responsibility to the federal government. Moreover, federal action increases the cost of inaction--that is, the cost of not proposing or taking the actions the federal government seeks to stimulate. Officials who do not respond to federal stimuli become vulnerable to criticism for failing to act --"for failing to take advantage of federal funds" or "failing to meet federal standards" (Derthick, 1970, p. 202).

The incentive of federal grants to states who meet certain federal regulations has been a positive force in recent welfare reform. The targeted populations and participation requirements under JOBS have encouraged states to move their programs in new directions and correct the weaknesses found in previous welfare-to-work programs (GAO/HRD-91-106, 1991, p. 13). This allows the facilitation of national guidelines while allowing states the flexibility to implement programs that fit their welfare "environment."

Although the language of current JOBS legislation makes specific participation and targeted requirements¹¹ in current form, it does not offer states the incentive to develop creative programs to get their clients working. Currently, a certain percentage of those required to participate in JOBS must average 20 hours a week in activities. These "activities" currently must include assessment of employability, development of an employability plan, education, job skills training, job readiness and job development and placement. Essentially, as long as the client is in some form of these activities at least 20 hours a week, federal requirements are fulfilled.

This does not provide the incentive for states and localities to meet the tougher challenge of job placement. The matching federal funds requirements of JOBS should be changed to reflect this needed emphasis without returning to the pre-JOBS problem of immediate job placement without long-term improvements in education and training.

In order to discourage either of these scenarios, separate participation requirements need to be mandated for job placement after targeted clients (those with the most employment barriers) have completed educational goals. However, only placement in full-time, permanent positions that offer health care benefits will fulfill this requirement. This eliminates the temptation to place clients in part-time, temporary positions that do not offer benefits and, as previous records have shown, will keep many clients in the revolving door of dependency.

This tougher requirement on job placement (after education and training) forces states to develop innovative relationships with major employers that provide additional incentives for businesses to hire JOBS participants. It is the

¹¹ At least 55 percent of JOBS funds must be spent on targeted (potentially long-term) welfare recipients; For federal fiscal years 1990-91, 7 percent of those required to participate must average 20 hours in activities a week; this rises to 11 percent in 1992-93, 15 percent in 1994 and 20 percent in 1995.

initial responsibility of the appropriate governmental agencies (social services, JTPA) to actively encourage businesses to hire welfare-to-work participants. This proposal challenges states to move beyond the continual "pegging" of welfare-to-work clients within the system to increasing their involvement and awareness among the business community.

The flexibility states enjoy with JOBS is partially the result of successful welfare-to-work programs under WIN. The same sort of flexibility should be given in developing alliances with area businesses, since states differ in their relationships between social services, JTPA, PICS, and the business community. The same holds for local flexibility since these relationships become more refined at the local level.

At present, there is disagreement between what JTPA and the Roanoke Department of Social Services feel they offer to businesses and what businesses feel they have to offer. Offering federal incentives encourages localities to increase their communication with the business community to better understand the current weaknesses of their offerings from the perspective of the potential employers. This allows for the crucial exchange and feedback mechanism that is currently not in place.

The testimony of Governor Mario Cuomo of New York addresses this issue of broader involvement from the business community. In testimony before the Subcommittee on Social Security and Family Policy of the Senate Finance Committee, Governor Cuomo raised the issue of a social contract.

A New Social Contract is indeed what we need, an effort among all of us--Government, business, and private citizens--that recognizes mutual obligations . . . One danger we face is that we fail to demand that all parties to the social contract fulfill their obligations (Senate Hearing 100-335, p. 83-87).

One way to begin the implementation of such a social contract is to provide national direction over the facilitation of increased development of relationships between state and local governments and employers. Businesses need to commit to JOBS, but it is the role of the government to facilitate this commitment.

Conclusion

The main goal of JOBS has been to promote self-sufficiency by helping JOBS participants become successful participants in the work force. Before JOBS clients can significantly join the work force, however, businesses must be willing to hire them. Businesses must be willing to commit to JOBS. This case study involving Roanoke, Virginia, was conducted to determine what mechanisms, if any, are currently in place to support such a commitment.

Although these results have limited generalizability, they do, at a minimum, suggest the need for further research on the importance of

commitment from area businesses to JOBS and the specific ways that entering such a commitment can become more attractive for businesses. Departments of social services may feel they are offering incentives for businesses to hire JOBS participants, but these results suggest businesses do not share the same feeling. This suggests a drastically differing viewpoint that could be a vital link in increasing the success of welfare-to-work programs.

Appendix A

Actual (A) and potential (P) JOBS participants of selected localities in Piedmont Virginia.

Locality	October '91			November '91			December '91		
	A	P	%	A	P	%	A	P	%
Campbell	3	120	2.5	14	134	10.4	12	157	7.6
Danville	77	204	37.7	69	224	30.8	40	250	16.0
Halifax	35	107	32.7	35	111	31.5	27	126	21.4
Lynchburg	46	374	12.3	45	406	11.1	38	440	8.6
Roanoke City	186	514	36.2	190	524	36.3	176	521	33.8

Source: Employment Services Program Satisfactory Participation Report as of December 1991 for Region 4--Piedmont; Commonwealth of Virginia Department of Social Services.

Appendix B Employer Survey

1. Have you heard of the Fifth District Employment and Training Consortium (sometimes referred to as the Job Training Partnership Act or JTPA)?

YES NO

2. Has your firm ever had to provide new employees with additional on-the-job training to be sure they could do their job satisfactorily?

YES NO

If NO, skip to #3.

2A. If yes, how often did JTPA assist in providing this additional training?

- Approximately 75-100% of the time
 Approximately 50-74% of the time
 Approximately 25-49% of the time
 Approximately 1-24% of the time
 0% of the time

3. Relative to other major employers in the area, how would you describe your involvement with JTPA? (Circle one number)

much more involved 1	more involved 2	average involvement 3	less involved 4	much less involved 5
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4. Given your firm's experience with the Fifth District Employment and Training Consortium (JTPA) which of the following statements best describes your firm's probable future relationship with the Fifth District Employment and Training Consortium (JTPA)?

- maintain current level of involvement
 increase level of involvement
 decrease level of involvement

5. Are you familiar with the Job Opportunities and Basic Skills (JOBS) Program which is a part of the Family Support Act of 1988?

YES NO

6. Are you aware of the Private Industry Council of the Roanoke Valley?

YES NO

7. Is your firm now or has it ever been a member of the Private Industry Council of the Roanoke Valley?

YES (If YES, complete 7A and 7B)

NO (If NO, complete 7C)

NO, but plan to become a member

7A. If yes, for how many years? _____ years

7B. Relative to other major employers in the area, how would you rate the extent of your firm's involvement with the Private Industry Council? (Circle one number)

much more involved 1	more involved 2	average involvement 3	less involved 4	much less involved 5
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7C. Which reason best describes why your firm has never been a member of the Private Industry Council?

have never been nominated for membership

was nominated for membership, but not offered an appointment

was nominated for membership, but declined the nomination

other, please list

8. Does your firm normally notify JTPA (either through mail, by telephone, or in person) when you have entry-level positions available?

YES NO UNSURE

9. To your knowledge, has your firm ever hired anyone who qualified for the Targeted Job Tax Credit (TJTC)?

YES NO UNSURE

(If NO, skip to #11)

9A. If yes, generally speaking how would you rate your experience with these employees in terms of their ability to perform the job assigned?

excellent
 above average
 average
 below average
 poor

9B. Generally speaking how would you rate your experience with these employees in terms of their overall job performance (e.g. attitude, attendance, ability to get along with others).

excellent
 above average
 average
 below average
 poor

9C. How often would you say your firm hires someone who qualifies for the Targeted Job Tax Credit?

very often
 often
 sometimes
 rarely
 never
 not sure

10. Generally speaking, which of the following statements best describes your attitude toward hiring someone who is eligible for the Targeted Job Tax Credit (TJTC) for entry-level positions?

_____ Our firm hires the best qualified applicant, regardless of whether or not the applicant is TJTC eligible.

_____ Our firm would hire someone slightly less qualified if the applicant was TJTC eligible.

_____ Our firm would hire someone significantly less qualified if the applicant was TJTC eligible.

_____ Our firm actively avoids hiring individuals who are eligible for the TJTC.

11. PLEASE USE THE SPACE BELOW TO MAKE ANY COMMENTS YOU THINK WOULD BE USEFUL ABOUT YOUR EXPERIENCE WITH THE FIFTH DISTRICT EMPLOYMENT AND TRAINING CONSORTIUM (JTPA), PRIVATE INDUSTRY COUNCIL, AND/OR TARGETED JOB TAX CREDIT EMPLOYEES.

Thank you for completing this questionnaire. Your participation is greatly appreciated.

Works Cited

"Annual Plan: Program Year 1991." 1991. Roanoke, VA: Fifth District Employment and Training Consortium, March 14.

Chisman, Forrest P. 1992. "It's Not Like They Say:" Welfare Recipients Talk About Welfare, Work and Education. Washington: The Southport Institute for Policy Analysis.

Cottingham, Phoebe H.; and Ellwood, David T. eds. 1989. Welfare Policy for the 1990s. Cambridge: Harvard University Press.

Derthick, Martha. 1970. The Influence of Federal Grants. Cambridge: Harvard University Press.

Ellwood, David T. 1986. Targeting "Would-Be" Long-Term Recipients of AFDC. Princeton, NJ: Mathematica Policy Research, Inc.

Gueron, Judith M. and Pauly, Edward. 1991. From Welfare to Work. New York: Russell Sage Foundation.

"Implementation of ESP/JOBS in Virginia." 1991. Virginia Department of Social Services. October.

Ripley, Randall B. and Grace A. Franklin. 1986. Policy Implementation and Bureaucracy. Chicago: The Dorsey Press.

U.S. General Accounting Office. 1991. Welfare to Work: States Begin JOBS, But Fiscal and Other Problems May Impede Their Progress. Publication no. HRD-91-106. Washington, DC: U.S. General Accounting Office. September.

U.S. Government. 1987. Welfare: Reform or Replacement? (Child Support Enforcement), Senate Hearing 100-335. Washington, DC: U.S. Government Printing Office. January 23 and February 2.

U.S. Government. 1987. Welfare: Reform or Replacement? (Work and Welfare), Senate Hearing 100-320. Washington, DC: U.S. Government Printing Office. February 23.

Weiss, Carol H., 1972. Evaluation Research: Methods of Assessing Program Effectiveness. New Jersey: Prentice-Hall, Inc.

THE CRIMINAL JUSTICE SYSTEM: UNFAIR AND INEFFECTIVE

Randolph N. Stone¹

Introduction

Following the acquittal of the police officers who beat Rodney King and the subsequent rebellion in Los Angeles, several surveys revealed the gaping chasm separating black and white perceptions of the criminal justice system. The results, though disheartening, are not unexpected. USA Today found that 81 percent of blacks saw the criminal justice system as racially biased; only 36 percent of whites agreed.² A survey by The Washington Post revealed that 9 out of 10 blacks believed that blacks and other minorities did not receive equal treatment by the criminal justice system; of whites surveyed, less than 50 percent agreed.³ Three years ago, a national poll prepared for the NAACP Legal Defense and Educational Fund found nearly identical results.⁴ Black and white confidence in the criminal justice system is as different as the colors.

Over thirty years ago, President Kennedy launched a plan to finance the exploration of the solar system. Two years ago, President Bush initiated a plan and spared no expense to expel Iraqi forces from Kuwait. Today, the crisis in the criminal justice system demands an equally committed effort and strategy. Critical to success is the restoration of confidence and respect in the criminal justice system. The strategy must focus on crime prevention, not on crime control; on getting smart and being effective, not on getting tough; and on the essential nexus between social justice and criminal justice.

Policies and practices aimed at reducing crime -- arrest, prosecution and incarceration -- have instead given rise to the crisis in America's criminal

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²USA Today, May 13, 1992

³Washington Post, May 3, 1992

⁴NAACP Legal Defense and Educational Fund, Inc., The Unfinished Agenda on Race in America (January, 1989)

justice system. While failing to reduce crime rates or create safety in the inner city, these uncoordinated policies are threatening to bankrupt the capacity of the legal system to provide justice. This paper examines elements of the criminal justice crisis from a Cook County, Illinois perspective, suggesting strategies for reform within and beyond the criminal justice system.

Cook County – A Criminal Justice Microcosm

Cook County covers an area of 958 square miles and has a population of 5.3 million persons, 55 percent of whom are white. The County Jail houses almost 9,000 prisoners, 80 percent of whom are minorities who come from mainly concentrated pockets of urban blight on the south and west sides of Chicago's 228 square miles.⁵ Like most other detainees and defendants in the United States, those in Cook County enter a criminal justice system characterized by inconsistent policies and internal contradictions. The problems here are the problems of a nation: arrest and prosecution policies appear and often are biased and discriminatory; courts struggle under excessive caseloads and resort to assembly line justice; jails are overcrowded and unsafe.

Public officials in Illinois, in Cook County, and nationwide often turn to arrest, jail and prison as answers to the problems of crime, poverty and despair. The transfer of juveniles to adult court, mandatory sentencing schemes, and increased reliance on incarceration are three common responses to demands for tougher criminal laws. As an example, in Illinois, a fifteen-year-old first-time offender charged with selling a controlled substance within 1,000 feet of public housing is treated as an adult.⁶ In contrast, a fifteen-year-old first-time offender charged with selling a controlled substance from or near his home in the suburbs is treated as a juvenile. Counseling, treatment and targeted programs are made available to the juvenile suburbanite while the inner city youth most in need of social services enters the resource-starved adult criminal justice system. Given that over 90 percent of the Chicago Housing Authority's tenants are African-American, the unequal treatment of juvenile offenders is even more flagrant.⁷

The disparity in treatment worsens the second time these youthful offenders are arrested. The suburbanite, arrested for selling drugs in his home, continues to participate in the juvenile court system. The inner city youth, arrested for selling drugs within 1,000 feet of his home in public housing, once again enters the adult criminal justice system but this time faces mandatory incarceration.

⁵ John Howard Association Report, May 27, 1992 and Cook County Sheriff's Department.

⁶ Ill. Rev. Stat. ch. 37, § 805-4 (7)(a) (1991).

⁷ Chicago Housing Authority, Department of External Affairs.

Mandatory minimum sentencing provides a simplistic response to a complex problem. In Illinois, a repeat offender convicted of selling one to fifteen grams of cocaine or crack receives a minimum sentence of 4 years.⁸ The law prohibits sentencing the offender to a period of probation, a term of periodic imprisonment, or conditional discharge. Mandatory incarceration ignores the particular circumstances of the individual and contributes heavily to overcrowding and its attendant unsafe conditions.

Upon entering the Cook County criminal justice system, indigent defendants, unable to retain private counsel, face an uphill battle. The State's Attorney has twice the budget and almost twice the manpower of the Public Defender, the office charged with representing the poor.⁹ While some of this disparity may be attributable to the State's Attorney's civil activities, the Public Defender's office annually strains to provide adequate legal services to over 200,000 citizens unable to afford private counsel.

Once arrested, Cook County citizens face even more deprivation and degradation. Cook County Jail, despite two recent additions, remains severely overcrowded. In March, 1992, the Chicago Fire Department cited Cook County Jail for numerous fire code violations.¹⁰ In June, 1992, an average of over 2,000 inmates slept on mattresses on floors, and a prison monitoring group strongly criticized the county jail's hospital facilities.¹¹

The criminal justice crisis in Cook County typifies the crisis that confronts virtually every other jurisdiction in America today. The problems of poverty, unemployment and failing public education evidence themselves in urban crime. The system turns a blind eye to the root causes of the disease, seeking instead to alleviate its symptoms by applying short-term solutions. Legislators skew resource allocation towards conviction and incarceration while imprisonment and its inhumane conditions offer little hope for rehabilitation and recovery. A recent report of the organization and administration of justice in Cook County noted:

Unfortunately, we found a 'non-system.' Conflicts between agencies continue unresolved, and juveniles are lost through the "cracks" as they are shifted among agencies. The major agencies -- such as police, prosecution and the courts -- act in isolation. Antagonism, rather than harmony, too often characterizes agency relationships. The system, in

⁸ Ill. Rev. Stat. ch. 56 1/2 § 1401, ch. 38 § 1005-8-1 (1992)

⁹ Cook County 1992 Annual Appropriations Bill.

¹⁰ *Chicago Tribune*, March 6, 1992

¹¹ John Howard Association, Report of May 27, 1992, p. 92

short, has no core actors. And it has no central cooperative purpose [or] direction. 12

The failure of the criminal justice system to respond effectively to those most affected by and involved in the system perpetuates the cycle of injustice.

Arrest -- The Weapon of Choice in the War on Drugs

Every Administration since Nixon has chosen to fight the "war on drugs" by dedicating additional resources to arrest and interdiction. Always, we are on the brink of success. When will we succeed? As interdiction and arrest efforts focused on marijuana, users turned to cocaine. As efforts focused on cocaine, users turned to crack. As efforts focus on crack, users turn to heroin. There is little direct evidence that the efforts to control the problem of drug use by increasing arrests and interdiction has been or can be effective.

In 1980, the federal drug control budget totaled \$1.5 billion. Arrest, interdiction, prosecution and incarceration efforts accounted for 57 percent of the budget authority. Abuse prevention and treatment totaled 36 percent. By 1992, the federal drug control budget authority had increased to \$11.7 billion.¹³ Resources dedicated to arrest, interdiction, prosecution and incarceration accounted for almost 70 percent of the budget authority, or \$8.0 billion. The money dedicated to abuse prevention and treatment totaled slightly more than \$3 billion, only 27 percent of the budget authority. This 25 percent decrease in relative spending is echoed throughout the United States: a focus on arrest, prosecution and incarceration at the expense of prevention and treatment.

In 1989, drug related arrests accounted for 10 percent of the arrests nationwide and over 26 percent of criminal cases filed in the United States District Court.¹⁴ Most drug arrests are prosecuted at the local court level where, since 1980, drug prosecutions have also increased dramatically.¹⁵ Between 1980 and 1990, the number of drug arrests doubled, causing a nationwide flood of defendants into overcrowded and ill-equipped local courts and jails.¹⁶

In 1990, the nationwide drug abuse arrest rate per 100,000 inhabitants was 449. In Chicago, that rate exceeded 1,150. In fact, drug arrests in Chicago are so pervasive that Chicago's 1980 drug abuse arrest rate of 508 per 100,000

¹² Criminal Justice Project, p. viii 1990.

¹³ Sourcebook of Criminal Justice Statistics, 1990, p. 16.

¹⁴ Sourcebook, 1990, p. 483.

¹⁵ National Crime Survey, p. 178.

¹⁶ American Bar Association, Crime Drugs and Criminal Justice, p. 11 citing Sourcebook of Criminal Justice Statistics - 1989, Table 4.1.

inhabitants exceeded the nationwide 1990 arrest rate.¹⁷ In 1991, Chicago police made over 32,000 drug arrests, over three times as many as were made in 1984.¹⁸ Not only are drug arrests on the rise, but these offenses constitute an ever increasing percentage of all offenses charged. Like their counterparts nationwide, state, county and city officials continue to stress arrest as a solution to drug abuse and crime.

Funds dedicated to drug abuse prevention and treatment remain scarce while those dedicated to arrest and incarceration flow freely from government coffers. In the current Cook County Budget, spending for all public health care increased 13 percent while spending for the State's Attorney's Office increased almost 20 percent.¹⁹ Undoubtedly, there is a link between drugs and crime. Nationwide, over 65 percent of all those arrested tested positive for drugs; in Chicago, the figure is closer to 75 percent, and almost 30 percent of those in Cook County jail are charged with drug possession or delivery.²⁰

Nonetheless, aggressive arrest and interdiction policies have failed to prevent the drug abuse and crime that are the manifestation of a greater problem -- the economic, educational and spiritual poverty in those communities most ravaged by crime. Funding for prevention and treatment is essential; equally important are viable opportunities for education, training and employment. Early childhood intervention programs such as Head Start must be funded. Day care and community activity centers must be built. Job training and community health center services must be provided. The preventive medicine of intervention and empowerment must be dispensed to treat the disease afflicting the inner city.

Parenthetically, another aspect of arrest policies and the criminal justice system deserves mention. In Chicago, blacks account for 40 percent of the population but only 20 percent of the police force. The employment picture for African-Americans who wish to join the police force has improved only marginally over the past five years, despite the presence of a court-ordered affirmative action plan.²¹ Meaningful minority participation in Cook County's legal profession and judiciary is also marginal. Significant minority frustration with the criminal justice system is further aggravated by the perception that whites are responsible for making arrests, prosecuting offenders, defending the accused and dispensing justice.

An encouraging development in police forces around the country, from small cities like Elgin to large cities like New York, is the initiation of community

¹⁷ National Crime Survey

¹⁸ WBEZ Radio interview with Chicago Chief of Police Matt Rodriguez, May 1, 1992.

¹⁹ Cook County Budget, October 31, 1992.

²⁰ Sourcebook, 1990, p. 457, *Chicago Tribune*, May 29, 1992, Cook County Department of Corrections.

²¹ Sourcebook, 1990, p. 45

policing programs.²² An increase in community policing is one of the main goals of a recently announced Chicago Police Department reorganization plan. Typical community policing efforts range from opening storefront police offices in crime plagued neighborhoods, to patrolling on foot in high density communities, to providing housing for police officers and their families in areas where a more permanent police presence is required. These efforts have one goal in common: preventing crime by forging greater mutual respect and cooperation between the police and the community.

Courts, Prosecution and Defense

While officials continue to promote law-and-order solutions to social and economic problems, numerous additional roadblocks confront those who enter the criminal justice system. Public defenders struggle under ever-increasing caseloads to provide effective legal advice and services to the accused indigent while judges fret about case disposition rates, paying little heed to the quality of the justice they dispense. Prosecutorial discretion produces charging decisions and trials tainted by racial and class prejudice. Such misguided practices and policies aggravate the already significant frustrations of minorities and the poor.

Indigent Defense - An Empty Promise

If the community had provided [a] system of doing justice, the poorest person in this room would have as good of a lawyer as the richest, would he not? If the courts were organized to promote justice, the people would elect somebody to defend all these criminals, somebody as smart as the prosecutor - and give him as many detectives and as many assistants to help, and pay as much money to defend you as to prosecute you. (Clarence Darrow, Address to Inmates of Cook County Jail, 1902).

The Cook County Public Defender's Office was established in 1930; its Fiscal Year (FY) 1991 budget was \$32 million, and it employed 508 lawyers and 248 support staff. The office provides representation to over 95 percent of the indigent criminal defendants in the county, representing over 200,000 clients a year. The office is responsible for providing representation in death penalty, other felony, misdemeanor, juvenile (delinquency and abuse/neglect), paternity, appellate, post-conviction and mental health cases. There are four major locations in Chicago and five large branch offices in the suburbs.

²² The Washington Times, April 28, 1992, p. A6; Newsday, July 29, 1992, p. 19.

Additionally, lawyers are required to service clients in dozens of misdemeanor courtrooms throughout the city.

Until recently, the chief public defender was appointed by the Chief Judge of the Circuit Court of Cook County. Pursuant to an amendment to the state statute, the Public Defender is now appointed by the President of the County Board with the advice and consent of the other County Board commissioners. In addition, the office now presents its budget directly to the County Board rather than being part of the judicial budget. This change in the appointment and budget process was the result of criticism relating to a perceived lack of independence of the office from the judiciary.

Despite an increased emphasis on training and supervision, the quality of services provided in some areas is questionable due to the exceedingly heavy case loads that attorneys are required to handle. For example, in the juvenile division, it is not uncommon for individual attorneys to have active and pending caseloads of over 400 clients. Similarly, in the felony trial division, lawyers may be responsible for over 100 pending cases. The office has a murder task force of about 25 lawyers, each lawyer handling over 20 pending murder cases at any given time, and often a third of these cases are death penalty eligible. In the misdemeanor courtrooms, lawyers may be responsible for virtually all of the indigent cases in their respective courtrooms.

Moreover, the office operates primarily under a horizontal or zone representation system. This means that lawyers are assigned to courtrooms first and clients second. Therefore, an individual client may be represented by a number of different public defenders before the case is resolved. For example, after arrest the client appears in bond court represented by the public defender assigned to that courtroom; thereafter, his case is assigned for preliminary hearing or arraignment, where he is represented by the defender assigned to that court. When the case is assigned to trial court, a different public defender receives the case. If the case is transferred, the lawyer does not follow the case, but instead the lawyer assigned to the receiving courtroom now represents the accused. In addition to the obvious impact on attorney/client rapport, the quality of representation suffers as the responsibility for case preparation and planning is diffused, valuable time for investigation is lost, and gaps in legal representation leave the client without the assistance of counsel at critical stages of the case. The office does provide vertical representation in murder cases, at least to the extent that the same lawyer who represents the client at the preliminary hearing normally follows the case to conclusion. Further, efforts are being addressed to expand vertical representation in other areas of the office. However, the judiciary is resistant, preferring the status quo; some judges have expressed concerns that vertical representation may negatively impact on the disposition rate and the efficiency of processing cases.

Recent initiatives by the management and union (staff attorneys are unionized) have resulted in relatively comparable salary and benefit levels between the defender and local prosecutor's office. However, the Cook County State's Attorney has almost twice the budget and over 60 percent more

personnel than the Public Defender. The County's Fiscal Year (FY) 1992 budget allocated 15 percent more on a per employee basis to the State's Attorney's Office than to the Public Defender, and the State's Attorney received a whopping 20 percent increase in appropriations while the Public Defender received a meager 3.7 percent increase.²³ Further, despite repeated requests, the level of non-attorney support staff (investigators, clerical, social workers) and other non-personnel accounts remain insufficient.

As noted earlier, the Cook County Public Defenders Organization (CCPDO) represents almost all the indigent defendants in the criminal courts. Rarely are private counsel appointed, except in the most egregious cases of conflict. The Judiciary and the County Board created a multiple Defendant Division within the CCPDO to avoid private appointments in cases of more than one defendant. (There are problems with both the concept and implementation of this initiative that extend beyond the scope of this paper). There is no professionally administered system of private counsel appointments because the CCPDO is perceived as less expensive. While in the short-term this view may appear to be cost-effective, in the long-term, the effect on the quality of justice, individual and community respect for the criminal justice system itself and potential civil litigation related to ineffective assistance of counsel may undermine any perceived short-term cost saving.

Although private counsel is rarely appointed, some private lawyers involve themselves in the criminal justice system through pro bono efforts. These lawyers make themselves available to the chief judge of the criminal division, who, on occasion, will appoint them to a limited number of cases. While it is admirable that private lawyers involve themselves in the representation of the indigent, their limited involvement has little or no impact on the crushing caseloads of the assistant public defenders. Moreover, some commentators suggest that since the state has the responsibility for providing competent and effective counsel to the accused, pro bono participation should not be viewed as abrogating the state's responsibility.

As more and more indigent defendants enter the criminal justice system, those who are constitutionally required to defend them are unable to provide effective service. In 1978, 13,364 felony cases were filed, and in 1988, the number had almost doubled to 25,168 felony filings.²⁴ Public defenders represented almost 70 percent of those defendants. On a nationwide basis, over 7 percent of justice system expenditures is dedicated to prosecution and legal service while only 2.3 percent is dedicated to indigent defense services.²⁵ Six times as much personnel is dedicated to prosecution as is dedicated to public defense.²⁶ In

²³ Cook County Budget, October 31, 1991.

²⁴ Illinois Criminal Justice Authority, Trends and Issues '90 Focus on: Criminal Justice Financing, p. 98 (1990).

²⁵ Sourcebook, 1990 p. 2, 5.

²⁶ Sourcebook, 1990 p. 19.

Illinois, the more than \$1.6 billion spent in 1989 to operate the criminal justice system was allocated as follows: 55 percent, law enforcement; 25 percent, prisons and jails; 16 percent, courts and probation; 3 percent, prosecution; and 1.5 percent, public defense.²⁷

Given that 70 to 90 percent of those arrested in the "war on drugs" require the services of a public defender, the pressure on those who provide services to the indigent defendants continues to grow.²⁸ Little is done, however, at the national or local level to alleviate the burden.

State after state has faced major crises in the delivery of services to the indigent accused. A Louisiana judge struck down as unconstitutional the state's system for securing and compensating lawyers for poor defendants. Defendants awaiting trial in Fulton County, Georgia often languish for months before even meeting with an attorney.²⁹ In an attempt to balance its budget, San Francisco laid off 10 public defenders.³⁰

The situation is as bad at the federal level. In June 1992, the Administrative Office of the U.S. Courts notified lawyers compensated under the Criminal Justice Act for representing indigent defendants that funding for the fiscal year had been exhausted. Although the Director of the Administrative Office "apologized for any hardship the suspension of payments had on those providing services to the poor," the plight of the accused forced to rely on uncompensated counsel to protect his right to a fair trial was not addressed. When it restored funding for the indigent defense program, the Administrative Office froze other accounts including one for substance abuse referrals.³¹

As the poor and minorities wait in local jails for inadequate or nonexistent legal representation, the question must be asked whether the right to legal representation is an empty promise. In *Gideon v. Wainwright*, 372 US 335 (1962), the Supreme Court found a constitutionally mandated entitlement to legal representation. Today, Gideon's trumpet is increasingly muted; effective and competent legal representation for the poor and minorities is too often a case of form over substance. A lack of confidence in and a disrespect for the criminal justice system are the logical consequences of a system that regularly denies access to justice to the most needy people.

The Criminal Courts—Assembly Line Justice

In 1964, Illinois adopted the nation's first truly unified court system with a uniform structure and centralized administration and rulemaking. The Cook

²⁷ Trends and Issues 91, Illinois Criminal Justice Information Authority p. 193.

²⁸ National Legal Aid and Defender Association estimate, August 1990 in *Criminal Justice*, Fall 1991.

²⁹ *Atlanta Journal and Constitution*, January 6, 1991.

³⁰ *L.A. Daily Journal*, February 18, 1992.

³¹ *National Law Journal*, August 3, 1992.

County Circuit Court has 177 elected circuit judges and 182 appointed associate judges.³² The court is divided between a Municipal Department with six geographically based districts, each of which is further subdivided into criminal and civil courts, and the County Department, which has seven divisions including Criminal and Juvenile. The Criminal Division, based at 26th and California in Chicago, hears felony cases, crimes for which the penalty is one year or more in state prison. The 1st Municipal District serves Chicago and, in addition to hearing civil cases, also hears traffic misdemeanor criminal prosecutions, crimes for which the penalty is up to one year in the County Jail. Districts 2 through 6 serve suburban Cook County.³³

While quality legal representation is often denied to the indigent accused, the judiciary struggling under excessive caseloads often measures its success by case disposition rates, meaning the number of cases resolved in a given period of time. Judicial conferences focus on how to run more efficiently a court system rather than on how to administer justice more fairly. In enumerating the accomplishments of one appeals court circuit, the chief judge noted that despite a shortage of judges, the case disposition rate was only slightly below that of the previous year.³⁴ Fewer judges handled almost the same total number of cases, and 71 percent more criminal cases, in the same amount of time. The quality of the justice dispensed was not discussed.

Similarly, in 1989, Cook County created a Night Narcotics Court as a "temporary" solution to relieve the court system of a backlog of drug cases despite concerns about assembly line justice. In its first year, five judges aimed to hear 5,000 cases. In 1991, this temporary solution had expanded to eight courts and had disposed of almost 13,000 felony cases, many in less than one hour.³⁵ This year, drug arrests overwhelmed the now apparently permanent Night Court, and some cases are being transferred back to the regular day courts. Unfortunately, judges and prosecutors focus on the number of cases processed while failing to address quality of justice issues, such as the virtual certainty of rearrest and recidivism, given the lack of attention to drug treatment and other rehabilitative programs.

Justice is not a byproduct of an efficient court system; justice must be the goal of the system. The integrity of the criminal justice system should not be sacrificed at the altar of judicial efficiency and case disposition rates.

³² Illinois Criminal Justice Authority, Trends and Issues '90 Focus on Criminal Justice Financing, p. 126-127 (1990).

³³ Fiske, Barbara Page, ed., Key to Government in Chicago and Suburban Cook County, (University of Chicago Press, 1989).

³⁴ Proceedings of the Fifty First Judicial Conference of the District of Columbia, Circuit and Criminal Procedure and Rules Governing Section 2255, 134 FRD 321 (1991).

³⁵ Chicago Tribune, July 21, 1992.

Prosecution—An Abuse of Discretion

Elected every four years, the Cook County State's Attorney has a staff of over 1,200 employees, with 750 attorneys and a budget of over \$62 million, almost 11 percent of the Cook County's Public Safety budget.³⁶ The State's Attorney has wide discretion to establish policies for screening charges, investigating and preparing cases, filing formal charges in court, coordinating the roles of victims and witnesses, negotiating pleas, administering pretrial and trial procedures and making sentencing recommendations. Operationally, the State's Attorney's Office is divided into five main units with a number of subdivisions: criminal, civil, special prosecutions, investigations and public interest. Although the majority of its staff and resources are devoted to prosecuting criminal cases at trial and on appeal, the office has significant civil responsibilities as well, including advising county government, representing county officials, debt collection and enforcement of housing and nursing home standards.

At the earliest stage in the criminal process, the Felony Review Unit examines the cases against those accused. Five percent of those arrested are diverted to agencies such as the Department of Mental Health. Another 22 percent of the cases are dropped prior to any court proceedings. Of the remaining 73 percent, 18 percent are dismissed after some processing in the court system. Only 3 percent go to trial, resulting in two convictions for every one acquittal. Defendants plead guilty in the remaining 53 percent of felony cases.³⁷

The third point in the criminal court triangle, the prosecutor, has virtually unlimited discretion in charging and prosecuting decisions. A recent article reviewing studies on racism in prosecution, examined three areas in particular: the initial assessment of the severity of the offense, the decision concerning what specific charges to file, and the decision in homicide cases whether to seek the death penalty.³⁸ Prosecution at the maximum possible level is more likely if the victim is white.³⁹ In Los Angeles, whites were statistically more likely to have charges against them dropped than were African Americans or Hispanics.⁴⁰ Selective upgrading of charges occurs in cases where there is a

³⁶ Cook County 1992 Annual Appropriations Bill.

³⁷ Illinois Criminal Justice Authority, Trends and Issues '90 Focus on Criminal Justice Financing, p. 130 (1990).

³⁸ Comment, "Developments in the Law Race and the Criminal Process," 101 Harvard Law Review 1475 (May 1988).

³⁹ Meyers & Hagan, "Private and Public Trouble: Prosecutors and the Allocation of Court Resources", 26 Social Problems 439, 441-47 (1979).

⁴⁰ Spohn, Gruhl and Welch, "The Impact of the Ethnicity and Gender of Defendants on the Decision to Reject or Dismiss felony Charges" 25 Criminology 175 (1987).

black defendant and or a white victim and a selective downgrading of charges where there is a white defendant and or a black victim.⁴¹

Following the decision whether to charge, prosecutors' decisions on the level of crime with which to charge the defendant also reflect strong undercurrents of racism. Once the decision to prosecute has been made, black defendants involved in cases with white victims are more likely to be charged with the more serious level of offense.⁴² Another study found that the race of the victim played a crucial role in the decision whether to seek the death penalty.⁴³ Prosecutors are statistically more likely to seek the death penalty in those cases involving white victims than in those involving black victims.

Aggressive arrest and inflexible prosecution policies have produced yet another disparity: the race-tinged use of the plea bargain. As more and more defendants enter the criminal justice system and courts become clogged with cases, over 95 percent of prosecuted cases end with a guilty plea. The result of the plea, however, varies widely depending on the race of the defendant. The San Jose Mercury News analyzed over 650,000 criminal cases that were prosecuted between 1981 and 1990.⁴⁴ After the prosecutors decided to charge a defendant, a significantly higher proportion of white adults arrested on felony charges were later convicted of misdemeanors. Moreover, a higher proportion of those whites charged had the charges reduced or dismissed. The study concluded that at virtually every stage of pre-trial negotiation, whites are more successful than non-whites.

Undercurrents of racism also taint laws that on the surface may seem racially neutral. Pursuant to a statute passed by the Minnesota legislature, possession of "crack" cocaine carried a more severe penalty than possession of powdered cocaine. Over 95 percent of those arrested for possession of crack were black, while almost 80 percent of those arrested for possession of powdered cocaine were white. Ultimately, the Minnesota Supreme Court invalidated the statute as violative of the state constitution's equal protection guarantee.⁴⁵

Further, in many jurisdictions, a drug-using expectant mother has a better chance of being reported, prosecuted, or incarcerated than receiving treatment.

⁴¹ Bowers and Pierce, Arbitrariness and Discrimination Under Post-Furman Capital Statutes 26 *Crime and Delinquency* 563, 612-14 (1980)

⁴² LaFree, "The Effect of Sexual Stratification on Official Reactions to Rape," 45 Annual Sociological Review 842, 844 (1980), and Bowers, Pierce and McDevitt, Legal Homicide, 244-46 (1984).

⁴³ Baldus, Pulaski and Woodworth, "Comparative Review of Death Sentences: An Empirical Study of the Georgia Experience," 74 Crim L. Criminology 661, 709-10 (1983), and Paternoster, "Prosecutorial Discretion in Requesting the Death Penalty: A Case of Victim Based Racial Discrimination." 18 Law and Sociology Review 437, 471 (1984).

⁴⁴ San Jose Mercury News, December 8, 1991

⁴⁵ State vs Russell, 477 NW2d 886 (1991).

Since the outbreak of the crack epidemic, prosecutors and judges, concerned about the effect of crack use on the pregnant woman's fetus, have often threatened the drug-addicted mother with incarceration for the duration of the pregnancy. This threat of incarceration has no significant deterrent effect on the behavior of pregnant, substance-dependent women, and prisons are ill-equipped to handle the medical, social and psychological effects of detoxification combined with pregnancy.⁴⁶

Beyond being shortsighted and ineffective, this misguided policy has a disproportionate impact on poor African American women who typically use public hospitals where the risk of government detection of drug use is much higher.⁴⁷ While there exists little difference between the rate of substance abuse by pregnant women along either racial or economic lines, black women are ten times more likely to be reported to authorities.⁴⁸ This law enforcement focus on crack use by African American women in the inner city is in stark contrast to the availability of health and treatment facilities available to affluent white women whose use of harmful drugs is just as prevalent. Without adequate prenatal care or drug abuse treatment, inner city black women are more likely to have children who will become part of the cycle of poverty and despair. Jailing women, in the absence of adequate pre-natal, health, drug treatment and prevention programs is counterproductive in terms of both human and economic costs.

Underfunded representation discriminates against the poor, typically minority, defendant. Prosecution assessment and charging policies discriminate against minority victims and defendants. Legislators write laws that have disparate impact on the poor and minorities. And the judicial system, preoccupied with efficiency and disposition rates, diminishes the integrity of the criminal justice system. These, however, are just some of the victims of and some of the injustices in the criminal justice system today.

Juvenile Injustice

Almost one hundred years ago, Cook County established the first juvenile court system in the United States. Its humane vision and unique approach served as a model for numerous similar efforts throughout the country. Today, however, its vision is blurred -- its goals, unfocused. The Juvenile Court merely processes children, rarely pausing to assess individual needs.⁴⁹ The system's

⁴⁶ *Criminal Justice*, Winter 1991 p. 24.

⁴⁷ Roberts, Dorothy E. "Punishing Drug Addicts Who Have Babies: Women of Color, Equality and the Right to Privacy", 104 *Harvard Law Review*, 1419 (May 1991).

⁴⁸ Chasnoff, Landress and Barrett, "The Prevalence of Illicit-Drug or Alcohol Use During Pregnancy and Discrepancies in Mandatory Reporting in Pinellas County, Florida," 332 *New England Journal of Medicine* 1202, 1205 (1990).

⁴⁹ Kotlowitz, Alex. *There are No Children Here*, (Doubleday, 1991).

intended beneficiaries, the children of Cook County, have become its inadvertent victims.

Cook County's delinquency and abuse and neglect divisions share overcrowded facilities on the city's near southwest side. Every day the poorly lit hallways and sparsely furnished waiting rooms teem with mothers and grandmothers, children and infants, waiting for their names to be shouted by court personnel indicating it is time for their day (or, in this case, minutes) in court. In 1991 each juvenile delinquency courtroom handled between 1,100 and 1,700 new cases. Contrast this with the criminal courts at 26th and California, where each courtroom handled around 210 new cases. One juvenile court judge estimated that he made 1,700 decisions per month. Assuming 22 eight-hour working days per month, the judge issues 10 decisions per hour or one every 6 minutes.⁵⁰

Much of the overcrowding results from the failure to effectively screen out those cases where a finding of delinquency is unlikely. In 1991, prosecutors declined to prosecute only 3 percent of those cases referred to them by the police, down from a 16 percent screening rate in 1985. Of the remaining cases, 64 percent are dropped after an initial hearing, and 33 percent are either sentenced to the Department of Corrections, given a term of probation or assigned to another social services agency such as the Department of Mental Health.⁵¹

The number of mandatory transfers from juvenile to adult criminal court has grown exponentially. In 1984, the State automatically transferred 145 juvenile offenders to Criminal Court. Last year, that number exceeded 500 and there are now so many drug-related mandatory transfers of juveniles that the State's Attorney no longer counts.⁵²

The legislature increasingly reduces the juvenile court's discretion by expanding the number of offenses for which the Court must automatically transfer juvenile offenders to the Criminal Court. Many first-time juvenile offenders find themselves being tried as adults. The already strained resources of the criminal justice system, struggling to process its adult caseload is ill-equipped to meet the special needs of children. Transfers to criminal court place children beyond the reach of the limited but vital juvenile social service programs. Furthermore, the transferred juvenile offender will carry the stigma of an adult criminal record, further restricting already limited opportunities for a legitimate and productive future.

Racial bias manifests itself in juvenile justice as well. On Chicago's mainly white north side, 38 percent of the minor crimes reviewed by Cook County Juvenile Court personnel were not prosecuted. Comparable figures for Chicago's heavily African American and Hispanic west side and mainly African

⁵⁰ *Chicago Sun-Times*, March 22, 1992, p. 1

⁵¹ *Chicago Sun-Times*, March 22, 1992, p. 19

⁵² *Chicago Sun-Times*, March 27, 1992, p. 20

American south side, measured only 17 percent. The racial makeup at the Juvenile Detention Center reflects many of the same disparities found in County Jail: 8 percent Hispanic, 77 percent African American, and 15 percent white.⁵³

Incarceration—Injustice Aggravated

Arrest and prosecution policies, fraught with undercurrents of racism, serve as the foundation for discriminatory incarceration policies. For those imprisoned, facilities are grossly overcrowded, resources in pathetically short supply. Mandatory minimum sentencing and the failure to develop sufficient intermediate sanctions aggravate the problems of an overcrowded corrections system.

The Cook County Department of Corrections, more commonly known as the Cook County Jail, is a massive complex of buildings located at the corner of 26th and California, adjacent to the Criminal Courts building. The jail houses inmates in one of eight divisions, segregating them on the basis of gender, level of dangerousness and special needs. For example, one division houses only women, while another houses inmates who need regular medical attention.

In 1982, the County signed a federal court-ordered consent decree to improve conditions, to reduce overcrowding and to provide each inmate with a bed in a cell. Finding that the jail's administration had violated that agreement in 1983, the court ordered officials to reach the population limit by releasing inmates with less serious offenses. In 1989, the court fined the county \$1,000 per day for every day that the jail population exceeded its allowable limit. Fines totalled over \$200,000 before the Court discontinued the fine order in December 1989. The overcrowding, however, continues. In 1988, the daily average overflow population was 139 prisoners. In 1992, that number reached 2,508, an increase of over 1,700 percent.⁵⁴

A comparison of incarceration rates in the United States and other countries is revealing. The incarceration rate in the United States is the world's highest: 426 person per 100,000 population. The incarceration rate in the United States exceeds by almost 30 percent the rate in South Africa and by almost 60 percent the rate in the Soviet Union. More dramatic still is the comparison with West European countries. The United Kingdom has a rate of 97 per 100,000; Portugal, 83; France, 81; and, the Netherlands, 40.⁵⁵

These statistics forebode disturbing differences between the incarceration rates for black and white men. The United States imprisons black males at a rate four times as high as South Africa incarcerates black males: 3,109 per

⁵³ *Chicago Sun-Times*, March 23, 1992, p. 12

⁵⁴ John Howard Association, Court Monitoring Report, Final Report, "Jail Conditions and Compliance with the Consent Decree Relating to the Cook County Department of Corrections," p. 18, May 22, 1992.

⁵⁵ The Sentencing Project, *Americans Behind Bars*, p. 10.

100,000 as compared to 729 per 100,000. The incarceration rate for white males in the United States is slightly over 400 per 100,000. In light of these figures, it is no surprise that African Americans' distrust of the criminal justice system is so high.

Broken down even further, these statistics are even more disturbing. The Sentencing Project found that for African American males between the ages of 20 and 29, almost 1 in 4 is involved in the criminal justice system. Compare this to 1 in 16 white males and 1 in 10 Hispanic males in the same age group. In our urban centers, the situation is grim. For example, on any given day, 42 percent of the black men in the District of Columbia aged 18 through 35 were involved in the criminal justice system in some way — parole, probation, bond, imprisonment! An estimated 70 percent of black males in the District of Columbia are arrested before the age of 35 and 85 percent will be arrested sometime during their life.⁵⁶

These trends in criminal justice reverberate far beyond the immediate loss of freedom for young black men. The repercussions are particularly grave in the African American community. While most white men at this age are developing skills, raising families and starting careers, a significant number of black men are developing criminal records, raising bail and starting sentences. Furthermore, large numbers of African American men live with the stigma of an arrest and/or conviction record that restricts the availability of employment opportunities.

Patterns of discrimination manifest themselves in sentencing decisions. Statistically significant and racially correlated differences exist in both the length of court-imposed sentence and the length of sentence service. A 1985 report by the Rand Corporation, Racial Disparities in the Criminal Justice System, found that Michigan courts imposed statistically significant longer sentences on blacks than on whites. In Texas, African Americans and Hispanics served statistically significant longer sentences than did whites. The correlation between length of sentence, length of time served and race confirms the suspicion that racial and class bias infects even this stage of the criminal justice system.

The federal courts and a number of other states have established guidelines for sentencing with the hope of eliminating disparity and racial bias from the sentencing decision. While the results are subject to debate⁵⁷, any success will be all but illusory unless bias at the arrest and prosecution stage can be eradicated. The success of guidelines systems are questionable, and Professor Michael Tonry among others has criticized the U.S. Sentencing Guidelines as a

⁵⁶ Report of the National Center for Institutions and Alternatives by Jerome G. Miller.

⁵⁷ See "Reality of Guidelines Sentencing", 28 American Criminal Law Review 161, 1991.

punitive and mechanical set of sentencing standards that remove most meaningful discretion from sentencing judges, that crowd our prisons, waste our money [and] impose an enormous amount of unnecessary suffering . . . on individual offenders . . . 58

Tonry recognized the essential nexus between criminal justice and social justice, arguing that sentencing particularly in the context of non-violent crime should be used to enhance, or at least not diminish, the offender's "life chances."

Moreover, the over-reliance of guidelines on the traditional punishment of incarceration must be addressed. Forty-six states have mandatory minimum sentences that place an increasing burden on an already overcrowded prison system. In Illinois, two-thirds of the approximately 28,000 inmates in Illinois' 23 prisons were convicted of offenses for which they could not receive probation.⁵⁹ Mandatory sentences serve as a catalyst for prison overcrowding. In 1980, the average sentence length for a drug offense was slightly under 47 months. In 1989, that average reached almost 74 months.⁶⁰

Two aspects of mandatory sentencing are particularly noteworthy. First, such a myopic policy often reflects the politically expedient idea of how best to deal with those convicted of committing a crime. It ignores more effective and less costly strategies such as offender rehabilitation and crime prevention via intensive intervention. Second, such a policy shifts discretion from the judge to the prosecutor and precludes meaningful judicial consideration of individual and, particularly circumstances of the crime and characteristics of the individual. Discretion is shifted to the prosecutor, since she is now in the position to charge or not to charge an offense for which the judge must sentence the defendant to a minimum period of incarceration, regardless of the particular circumstances of the crime or the individual.

A large and disproportionate number of incarcerated African American and other minorities enter facilities that are both overcrowded and underfunded. In 1990, the prison systems of 42 states and the federal government were operating at more than 100 percent of their lowest rated capacity. The federal system and those of 34 states were operating at more than 100 percent of their highest rated capacity.⁶¹ Despite the addition of cells for almost 21,000 prison beds, built at a cost of almost \$50,000 per cell, prison overcrowding worsened in 1991.⁶²

⁵⁸ Tonry, Michael. *Criminal Justice and Social Welfare*, p. 26.

⁵⁹ *Chicago Tribune*, February 10, 1991.

⁶⁰ Sourcebook, 1990 p. 481.

⁶¹ Bureau of Justice Statistics Bulletin, May 1991, Table 8. Rated capacity measures suggested and maximum jail occupancy levels.

⁶² The Sentencing Project, *Americans Behind Bars*, p. 10.

The same problems persist in Cook County. Despite the recent addition to Cook County Jail of almost 1,100 beds, well over 2,000 inmates continue to sleep on mattresses on floors. In March, 1992, the jail operated at 140 percent of capacity, an increase in capacity utilization of almost 10 percent from 6 months earlier.⁶³ Another 750 bed unit is expected to be ready later this year and 1,500 more beds will be added by 1995. What Cook County officials originally described as a shortage of beds can now best be described as a shortage of floor space.⁶⁴ It has been estimated that in 1989, 29 percent of all black males between the ages of 20 to 29 were admitted to the Cook County Jail.⁶⁵

The County can offer little in terms of job training, substance abuse programs and remedial education classes when a facility designed to hold 7,000 holds almost 9,000 detainees. If Cook County, or any other jurisdiction, hopes to gain control of its prison overcrowding problem, it must provide rehabilitation, treatment and training programs that offer the chance to break the cycle of poverty and its attendant circumstances that contribute to crime.

Last year, State's Attorney Jack O'Malley and U.S. Attorney Fred Foreman called for the construction of more jails as a means to combatting Chicago's alarming homicide rate. "The police are doing a good job, the prosecutors are doing a good job, the judges are doing a good job. But there's not enough jail space."⁶⁶ There will never be enough jail or prison space as long as policies of arrest and incarceration are politically expedient but practically ineffective solutions.

Overcrowded jails, by their very nature, are dangerous. Large numbers of desperate persons, housed in cramped conditions, with limited outlets for frustrations or resources for rehabilitation, can wreak havoc on a system grounded on order and control. Beyond being overcrowded though, these facilities are often unsafe and unhealthy. Last March, the City of Chicago cited Cook County for 32 fire code violations for failing to provide functioning heat and smoke detectors in almost half of the jail.⁶⁷

Recent intermediate sanction initiatives are a product of the pressure of overcrowding. In Cook County, the Sheriff reacted to a severe overcrowding crisis in the women's unit by developing an overnight release plan. Women with families are released overnight, returning every morning to attend classes for general equivalency degrees and parenting skills, as well as drug treatment and counseling programs.⁶⁸ This effective, efficient, and innovative program

⁶³ John Howard Association Report of May 27, 1992.

⁶⁴ Interview with Charles Fasano, John Howard Association

⁶⁵ Cook County Corrections' Long-Range Master Plan, p. 2-15 (1991).

⁶⁶ UPI, September 5, 1991.

⁶⁷ Chicago Tribune, March 12, 1992.

⁶⁸ Chicago Tribune, November 21, 1991 p. 20.

was borne of necessity. The Sheriff is seeking funds to develop a comparable program for men.⁶⁹

Crime And The Community: Creative Solutions To Chronic Problems

Politicians and the general public tend to view enforcement as the first and only line of defense in the war on crime. Unfortunately, it is a Maginot line, an ineffective and inappropriate strategy overrun by the very problems it was designed to prevent. Aggressive yet ineffective arrest and "get tough" prosecution policies, utilized in conjunction with jail construction programs, are not a panacea for either reducing, preventing or controlling crime.

There are other, less costly, more humane, and more effective methods to reduce or eliminate the problems that lead to a rising incidence of crime. The abysmal failure of elected and appointed officials to endorse and promote realistic plans for restructuring the criminal justice system means that leadership must come from the community. Those most affected by crime and the criminal justice system must demand, articulate and push for the implementation of reforms that will produce the results that the present system has failed to achieve.

Below are four suggested areas of focus to reduce crime and restore justice to the criminal justice system.

(1) Crime Prevention Strategies: National, state, county, and community long-range and short-term strategies to prevent crime must be developed. Effective law enforcement policy, including community policing, is a necessity, but without comprehensive planning, involving criminal justice, public education, bar association, business, public health, legal education, the media, community and other institutions, crime will not be reduced. In the absence of national leadership, each local community must create a crime prevention plan and assist in the creation and placement of community treatment and corrections facilities. In addition to those elements discussed below, a comprehensive strategy should include gun control, reducing televised and film violence, childhood training in dispute resolution and violence prevention, and drug education. Moreover, economic revitalization of the inner city, involving job training and corporate responsibility, is central.

(2) Intermediate Punishments: The concept of expanding the range of sanctions for criminal behavior both to reduce our costly reliance on incarceration and to fashion more appropriate punishments is not a novel idea. Such sanctions include intensive probation, community based alcohol, drug and mental health treatment programs, house arrest and electronic monitoring, community service orders, day reporting centers, intermittent imprisonment, forfeiture, restitution, fines and fees for services. The use of intermediate

⁶⁹ Interview with John Robinson, Cook County Sheriff's Department, July 27, 1992.

sanctions "can better and more economically service the community, the victim and the criminal than the prison terms and probation orders they supplant."⁷⁰ The General Accounting Office found that, at a time when the federal prison system was operating at 150 percent of capacity, the system had a 27 percent vacancy rate in halfway house beds available to it.⁷¹ It costs almost \$18,000 per year to keep an inmate in prison, \$11,600 to provide work release privileges, \$2,300 to provide intensive supervision, and \$569 to provide regular probation.⁷²

Some may fear that this approach will result in more "criminals" in the community. However, the United States already leads the world in its rate of incarceration with no meaningful reduction in crime. We cannot afford, in economic or human costs, to incarcerate our way out of the problems of crime. Those whom we lock up, eventually come out, often more "criminal" and more violent. Our precious jail and prison space should be reserved for those who must be confined. Others should be more effectively monitored, punished and provided with opportunities to rehabilitate themselves into the community.

(3) Adequate and Balanced Funding: The crisis in state and county budgets, coupled with the substantial growth in workload, are major contributors to the crisis in the justice system. Further, poor planning and deliberately unbalanced investment resulting in the disproportionate spending on police and corrections have depreciated the ability of the courts to function. Within the courts, the delivery of defense services to the indigent is severely compromised. Although all elements of the criminal justice system are inadequately funded, increased budgets must be carefully planned and coordinated. Significant increases in law enforcement and prosecutorial spending significantly impact the workloads of the courts, public defenders and correctional facilities. Strategies for securing adequate and balanced funding include legislative advocacy, litigation (particularly in securing resources for indigent defense), funding formulas (designed to measure the effect of increasing one aspect of the system on other institutions), justice system impact statements (describing legislation's impact on all components of the justice system), and public information campaigns.⁷³

(4) Minimizing Racial Bias: Several state court systems have studied the problem of racial bias and suggest some of the following remedies: 1) increase the number of minority judges, prosecutors and defenders; 2) promote cross-cultural training funding pilot programs designed to reduce the high incarceration rate of African American males; 3) monitor prosecutorial charging and plea bargaining discretion; 4) provide adequate funding and resources for indigent defense services; 5) reexamine bail, sentencing and jury selection

⁷⁰ Morris and Tonry, Between Prison and Probation, (Oxford University Press, 1990).

⁷¹ Chicago Tribune Editorial, December 30, 1991, p. 10.

⁷² Pranis, Kay. Options in Criminal Corrections: A Study of Costs and Opportunities in Delaware, Minnesota Citizens Council on Crime and Justice, 1989.

⁷³ ABA Special Committee on Funding the Justice System.

policies; and 6) review criminal legislation for disparate impact on minorities.⁷⁴

Reducing crime and creating a fair and effective criminal justice system is a monumental task. However, a rational discussion devoid of political rhetoric, involving key players in the system, as well as those communities and institutions concerned with and affected by the problems of crime, can produce positive change. Local community organizations and individuals must pressure our government and business leadership to develop and implement creative solutions.

⁷⁴ ABA Task Force on Minorities and Justice System.

References

- American Bar Association, "Crime, Drugs, and Criminal Justice," Chicago, IL 1991.
- American Bar Association, "Criminal Justice in Crisis," November, 1988.
- American Bar Association, "Funding the Justice System, A Call to Action," August, 1992.
- Cook County, "1992 Annual Appropriations Bill," January, 1992.
- Criminal Justice Project of Cook County, "Crime and Criminal Justice in Cook County: A Report of the Criminal Justice Project," November 1989.
- Note, "Developments in the Law: Race and the Criminal Process," Harvard Law Review, Volume 101, May 1988.
- John Howard Association, Court Monitoring Report, "Jail Conditions and Compliance with the Consent Decree Relating to the Cook County Department of Corrections," October 25, 1991.
- John Howard Association, Court Monitoring Report, Final Report, "Jail Conditions and Compliance with the Consent Decree Relating to the Cook County Department of Corrections," May 22, 1992.
- Illinois Criminal Justice Information Authority, "Education and Criminal Justice in Illinois," Trends and Issues '91, 1991.
- Illinois Criminal Justice Information Authority, "Criminal and Juvenile Justice in Illinois, Focus on: Criminal Justice Financing," Trends and Issues '90, 1990.
- Illinois Criminal Justice Information Authority, "Criminal and Juvenile Justice in Illinois, Focus on: Drugs, AIDS, and DUI," Trends and Issues, 90, 1989.
- Jagnes & Williams, eds., A Common Destiny, Blacks and American Society (National Academy Press, 1989).
- Mauer, Marc "Young Black Men and the Criminal Justice System: A Growing National Problem," The Sentencing Project, 1990.
- Mauer, Marc "Americans Behind Bars," The Sentencing Project, 1991.

Miller, Jerome G. "Hobbling a Generation: Young African American Males in Washington, D.C.'s Criminal Justice System," National Center on Institutions and Alternatives, 1992.

Morris, Norval and Michael Tonry, Between Prison and Probation. Oxford University Press, 1990.

NAACP Legal Defense and Educational Fund, Inc. The Unfinished Agenda on Race in America, (January 1989).

Roberts, Dorothy E. "Punishing Drug Addicts Who Have Babies: Women of Color, Equality and the Right of Privacy," 104 Harvard Law Review 104, May 1991.

Stone, Randolph N. "Crisis in the Criminal Justice System," Harvard Blackletter Journal, Harvard Law School, Volume 8, Spring 1991.

Tonry, Michael "Criminal Justice and Social Welfare," 1990.

United States Department of Justice, "Sourcebook of Criminal Justice Statistics, 1990," Washington, DC, 1990.

United States Department of Justice. Bureau of Justice Statistics Bulletin, May, 1991.

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EMPOWERMENT STRATEGIES FOR A LOW INCOME AFRICAN AMERICAN NEIGHBORHOOD

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Abstract

A United States Department of Education Urban Community Service Grant funded the University of Louisville HANDS (Housing and Neighborhood Development Strategies) proposal. HANDS is a fresh, innovative, bold and pragmatic partnership of business, government, local universities, the public school system and community-based organizations. It represents a multifaceted effort with a commitment to assist a low income African-American neighborhood to lift itself from poverty into self-sufficiency. Low income neighborhood problems can only be remedied by a combination of programs involving: education, job and leadership training, homeownership counseling, financial investment, nonprofit community organizations and strategic design. Reaction to HANDS has been overwhelmingly positive from African-American community leaders, elected officials, bankers and developers.

Introduction

American inner cities are at a boiling point. Poverty, crime, AIDS, homelessness and hunger ravage the inner city. Conservatives argue that the inner city should be abandoned. They cite as proof 30 years of failed urban policies promulgated by Democrats and Republicans. To a certain degree, these critics are correct, but they should not conclude that nothing can be done. Certainly, neglect was a major factor that caused the burning, looting and killing in South Central Los Angeles last year.

The United States Department of Education Urban Community Service Grant program funds higher education institutions to form collaborative relationships with government, business, and community groups to address significant urban problems. The University of Louisville program was awarded a three year \$1.5 million grant (with a half million dollars local match) for a bold, innovative and pragmatic program called HANDS (Housing and Neighborhood Development Strategies), a multifaceted approach to turn around Louisville's most impoverished neighborhood. Louisville's innovative urban revitalization and empowerment programs offer a model for the rest of the nation to follow. In a time of pessimism, Louisville offers hope instead of despair, a future rather than a dead end.

Louisville's housing and neighborhood problems reflect the conditions of cities nationwide. Numerous surveys indicate that housing and neighborhood revitalization are two of the most important issues confronting the city (Durbin, 1992). Louisville Mayor Jerry Abramson, President of the U.S. Conference of Mayors, has made affordable housing and neighborhood revitalization one of the top three priorities of his administration. In addition, Leadership Louisville has played a major role in making housing a top priority in the community.³ In several Louisville neighborhoods, one out of every four housing

³In 1988, Leadership Louisville established the Bingham Fellows program through a \$500,000 donation from the Mary and Barry Bingham Senior Foundation. The Bingham

units is substandard, compared to the national average of one out of every 20 (Gilderbloom & Appelbaum, 1988). According to the Leadership Louisville Foundation (1989, p. 1) the city has a substantial housing problem that is supported by these startling statistics:

- (1) In 1988, 12,000 eviction notices were filed in Jefferson County District Court (Leadership Louisville Foundation, 1989)
- (2) In 1990, 11,071 families contacted the Department of Human Services' Family Assessment Center and the Community Ministries seeking assistance for housing (City of Louisville Office of Housing and Urban Development, 1991)
- (3) There are now 8,715 families on the waiting list for assisted housing (Jefferson County Community Development Office, 1991)
- (4) A majority of low income renters pays more than 50 percent of their income for housing (City of Louisville Office of Housing and Urban Development, 1991)
- (5) In the City of Louisville alone, 12 percent of the single family housing units and 13 percent of the multifamily structures are estimated to be substandard (City of Louisville, Office of Housing and Urban Development, 1991)
- (6) Of the estimated 51,000 rental units in the City of Louisville, more than 12,000 of them, about 24 percent, are subsidized (City of Louisville, Office of Housing and Urban Development, 1991)
- (7) In 1990, a total of 11,442 persons requested emergency shelter (Jefferson County Community Development Office, 1991)

Despite Louisville's rank near the bottom in housing costs both in renting and homeownership, this has not translated into resolving the housing crisis.⁴

Fellows Governing Committee represents many of the leaders in the community, including the current mayor, two previous mayors, a former senator, the school superintendent, and the county judge-executive, along with prominent banking, labor, charity, real estate, business and university leaders. The purpose of the Bingham Fellows is to identify a major community problem, conduct a detailed analysis of the situation, recommend solutions and develop a plan to implement the recommendations. The Bingham Fellows selected housing as its first topic. At issue was how to make affordable, safe and decent housing available to every person in the Louisville metropolitan area by the year 1995.

⁴ Lack of good housing leads to the deterioration of strong and vibrant neighborhoods. Its absence threatens the entire community's social and economic well-being (Gilderbloom & Appelbaum, 1988; Capek & Gilderbloom, 1992). According to Leadership Louisville (1989, p.1):

Louisville's shortage of affordable housing and unstable neighborhoods is as acute as in the rest of the nation. It would be simplistic, and incorrect, to blame the housing crisis solely on the lack of affordable housing (Lowry, 1992; Gilderbloom, Appelbaum, Dolny, & Dreier, 1992). Housing affordability and neighborhood revitalization can only be accomplished by a multifaceted effort including job, educational and leadership training, community design and homeownership programs. Piecemeal efforts are doomed to fail; only a comprehensive effort like HANDS can be successful.

Many recognized leaders and organizations were consulted in the development of HANDS. As a result of this process, four versions of the grant proposal were circulated to over 50 individuals and organizations. Reaction was tremendous. The HANDS proposal received 62 letters of support from the Mayor, County Judge-Executive, various government agencies, the NAACP, Louisville Urban League, numerous businesses, realtors, banks, builders and charities. The participation of these organizations molded HANDS into an innovative and pragmatic partnership.

The HANDS demonstration sites are the Russell neighborhood and LaSalle housing project in the city's West End. Much needs to be done. Russell is the most impoverished neighborhood in Louisville. With a population of 9,698, this area is 92 percent African-American. In 1990, 79 percent of the residents in the HANDS demonstration area had incomes below poverty level. Only 31 percent owned their homes and 60 percent were without high school diplomas. The vast majority of the families (90 percent) were female headed. Yearly household income was \$4,800 a year with a per capita income of \$2,800. Half the residents were on some form of public assistance. Unemployment hovered around 65 percent. Abandoned housing and dilapidated buildings were widespread; pawn shops, funeral homes and liquor stores were the leading neighborhood businesses. Illegal sex and drug trade were part of the underground economy. The socioeconomic conditions of Russell were worse than South Central Los Angeles in every category.

Description Of The Cooperative Project

Previous efforts to help the poor usually fail because the program is piecemeal, rather than comprehensive. Working closely with community,

Our concern about the housing problem was intensified because neighborhood vitality and integrity depend on a strong community housing effort . . . When neighborhoods deteriorate, the fabric of the community begins to tear. That has far-reaching impact on the area's economic development opportunities.

Leadership Louisville (1989) concluded that "whenever possible, we believe our housing efforts should encourage homeownership, particularly first time homeownership, because it creates a sense of pride that translates into economic stability."

business, government and academic experts, HANDS was developed as a realistic approach to create self-sufficiency among the poor. This program can change hopelessness to hope for a poor neighborhood and help weave together the fabric of the community. HANDS is helping facilitate the necessary resources that support the aspirations of resident families. Below is a detailed description of our program.

Case Management

Family Advocate Skill Teams (FAST) are formed under the auspices of HANDS to perform comprehensive family assessments and counsel 400 families in the HANDS target area. These teams are coordinated by a certified social worker and are comprised of a social work intern, early childhood specialist and/or gerontologist, and a nursing student. Three area higher education institutions (University of Louisville, Spalding University, and Southern Baptist Seminary) pooled their social work programs to implement internship programs providing comprehensive family assessments counseling to 400 families. Case management places program participants in one or more of the HANDS component programs. Each team leader serves as a case manager. The designation of the lead person depends on the health, education, or social/economic needs of the client family. The FAST case manager directs residents to support services including wellness, employment, child care, education and homeownership. The role of the case manager includes surveying families, planning with them, and brokering and networking with existing community resources and/or HANDS program components.

The multidisciplinary case management of HANDS has gotten off to a fast start since its beginning in January 1993. A student team was assembled with four social work students from the University of Louisville's Kent School of Social Work, one each from the University of Kentucky and Jefferson Community College, and a total of 18 nursing students from the University of Louisville and Spalding University. Family members have been referred to the HANDS leadership training program, computer training available through the Louisville Urban League and educational assessments conducted by the Educational Opportunity Center of Kentuckiana Metroversity, a coalition of local colleges and universities.

At this date, all households have been contacted to determine their interest and eligibility for homeownership in renovated LaSalle Place condominiums. Without credit stability or an adequate income, homeownership is not possible. For this reason, case managers assisted in connecting people to job training and educational counseling. For example, one student was interested in attending a small Kentucky junior college on a basketball scholarship. The family's case manager accompanied the student and his mother to the campus. Tutoring for the ACT entrance exam is being arranged for him in order to ensure his success on the exam.

The case management teams are not waiting for clients to come in. Each team makes appointments at the convenience of the families to visit their

homes. At that time, a complete assessment is made to determine the family's interests in jobs, educational opportunities and homeownership. The HANDS case management field office is located in the heart of the Russell neighborhood. Thus, HANDS case managers are close to the families being served.

Leadership Training

The leadership training program is intended to draw together individuals who have demonstrated the inclination and capacity for leadership within the Russell and LaSalle target areas. A partnership between the University of Louisville's College of Business and Public Administration, Jefferson County Public Schools, Louisville Central Community Center and Louisville Community Design Center has put together a leadership program to train 150 residents in the HANDS target area. HANDS will instruct participants in community organizing strategies, entrepreneurship and positive career, financial and life-style choices. The goal of the training program is to reinforce and to enhance the leadership capabilities of individuals.

In order to establish permanent change in the community, the community's leaders must take ownership of and direction for the type and quality of activities they select. When trained, these community leaders will become instructors for subsequent groups of residents, thus perpetuating leadership skills within the community.

The HANDS leadership training program for the Russell/LaSalle neighborhoods began the year with 15 residents who wanted to affect change in their neighborhood. Leaders of resident councils, small business owners, child care workers, homeowners and a chef were chosen to make up the first of six leadership classes. These classes were to "study a number of strategies and models that are examples of good organizational development and neighborhood improvement," according to Jack Trawick of the Louisville Community Design Center and lead facilitator for the class. Sam Watkins, Jr., Director of Louisville Central Community Center and team leader for HANDS leadership training feels that this first class is outstanding. According to Mr. Watkins, "We could not have selected a better mix of individuals to come together as a class to develop leadership skills for neighborhood development. The depth of discussion, ideas, and enthusiasm for learning has been impressive." After two meetings, the group identified concerns that included better job opportunities, better housing, improved parental guidance and drug prevention as core issues.

The importance of entrepreneurship is stressed in the training sessions. A spirit of self-sufficiency must be instilled to break an often intergenerational pattern of dependency on public support. Economic empowerment through entrepreneurial business concerns can provide resources to help implement the strategies developed to solve community problems and will reinforce efforts to build collective self-esteem.

HANDS has arranged a community speakers program to stress African-American business-building skills. Currently, a unique program is being

developed for internships for students earning a Masters in Business Administration. They will work with African-American businessmen to learn marketing, accounting, management and leadership skills for newly developing business enterprises.

HANDS has also developed an "esteem program" for Russell and LaSalle youth directed by the Jefferson County Public Schools. An esteem program provides a positive approach to leadership by using performing arts, life skills activities, community service and parent involvement to encourage youngsters to believe in themselves, their parents and their community.

Job Training

Roughly two-thirds of the residents in the HANDS target area are unemployed and need job-related assistance. Therefore, job training is an essential component of the program. In order to avoid the mistakes of the past, a training program must be individually tailored, intensive and offer long-term intervention and assistance to the trainees. The labor market program is aimed at providing skilled jobs paying \$7 to \$12 an hour. Persons entering the program will have had no work history or a history of employment in minimum wage jobs. Two levels of training are provided to the participants: entry and remedial training. Entry level training involves efforts to inculcate job skills in new labor market applicants. Individuals in the program who lack the basic skills to compete at the entry level have fallen so far behind in job-related skills that they need special help. Remedial training enables these individuals to compete in the current labor market because minimum wage laws often make employers reluctant or unable to provide general training to unskilled workers. The program model is administered by the Louisville Urban League.

On April 11, 1993, trainees from the Russell and LaSalle neighborhoods began an eight-week course in computer skills training as part of the HANDS project. The course is designed to familiarize students with business computer systems, computer terminology, word processing (WordPerfect 5.1), typing speed development, spreadsheet use and application (Microsoft Excel 4.0), alpha and numeric data entry and current trends in the use of computer software. Recent trainees have found employment at local firms such as Humana, Louisville Gas & Electric, American Red Cross and Cumberland Bank.

Job training begins with basic workforce skills which include: self-actualization, human relations/interpersonal communications, employer expectations, employability skills and job search techniques. The University of Louisville Labor Management Center provides a training segment on effective communication skills in the workplace which utilizes role playing and other hands-on techniques to illustrate the importance of meaningful communication in the work setting. Another important part of job training is a mentoring program to assist unemployed or underemployed adults become successful in the workplace. The unique quality of this program involves creating a much needed bridge to employment opportunities in the community. Each job trainee will be

assigned a mentor, a leader in labor or management relations who can give one-on-one attention to the trainees. These mentors are aware of the appropriate skills needed to assist job trainees succeed in the world of work.

Education

Like job training, education is central to the success of the HANDS project. The more one learns, the more one earns. Educational programs can turn the unemployed into the employable and give those in minimum wage jobs the means to earn higher salaries, allowing them greater homeownership opportunities. The School of Education at the University of Louisville contributes ideas, talent and training through a new teacher education program using student teachers and certified teachers. Working with the University of Louisville's School of Education, a comprehensive program has been established to advance the educational achievements of residents. This comprehensive effort includes four components:

Adults and Children Coordinated Education (ACCE)

The ACCE component provides education services for youth and adults who need help to complete high school education. Accredited classes in local community centers prepare residents to obtain the Graduate Equivalency Diploma. High school and other continuing education courses are available through the Jefferson County Public Schools, Adult and Continuing Education Program.

Pooling Assets for Continuing Educational Development (PACED)

As youths and adults complete the requirements for a high school diploma, higher education becomes possible. The PACED component continues where ACCE ends. An outreach program under the Kentuckiana Metroversity assists in providing financial aid to area residents seeking to attend college or other educational or vocational training programs. The staff of Metroversity provides ongoing educational counseling and workshops for residents at community centers located in their own neighborhood. Scholarships are being solicited from private corporations and foundations.

Literacy Is a Family Affair (LAFA)

With the assistance of the National Center for Family Literacy, HANDS is combating illiteracy. LAFA, using family literacy programs, ties two generations together in a unique educational opportunity. Parents and children learn together and attend school together. As parents identify their strengths and develop literacy skills, essential messages about the importance of education are passed successfully to their children. Parents and children become partners in learning. The National Center for Family Literacy is working with the residents of the Russell and LaSalle target areas in implementing this program. Early research indicates that 90 percent of the

children who have participated in family literacy programs are now successful in school.

Community Teaching and Tutoring (CTT)

CTT involves University of Louisville School of Education students as tutors and teachers for the residents of the target areas. A weeknight community study hall is available. The study hall is equipped with computers for training in basic job skills, remedial education, and grade school and high school programs. University of Louisville student interns work directly with residents on their homework. Older students are encouraged to work as mentors to younger students. The education program requires pre-service or student teachers to complete a specified number of community service hours as a requirement for graduation. HANDS uses education as the foundation for building a vision of the paths to developing a sense of community.

Homeownership

HANDS refers low income residents with demonstrated interest to the intensive homeownership program of the Housing Authority of Louisville. Interested families contact HANDS to apply for participation. Completed applications are reviewed, and an appointment is scheduled for the family to meet with its counselor. A complete financial analysis is conducted to determine what might prevent the family from obtaining mortgage loan approval. Then, a plan of action is designed specifically to meet a family's particular needs. Each family is placed in one of four groups on the basis of similar financial and credit characteristics. The counselor also prequalifies the family to determine the house value the family can afford, based upon its income and debts.

Once the family, with the assistance of its counselor, has resolved the identified problems (i.e., established a savings account showing adequate funds for a downpayment, closing costs and a reserve, sufficiently reduced its debt load, improved its credit standing, and acquired good money management skills), the family is ready to be enrolled in the educational phase of the program.

The potentially qualified home buyers attend seven educational class lectures addressing every aspect of the home buying process. The topics of the classes include: Credit, Basic Home Inspection Parts I and II, Selecting a Realtor and Understanding a Sales Contract, Mortgage Financing and Vocabulary, Homeowners Insurance, Loan Application and Loan Closing.

Families continue to meet with counselors throughout the process to enhance budgeting skills, build reserve accounts for replacement items and avoid foreclosure. The family continues in this manner for a period of six months after receiving its Certificate of Program Completion. All graduates are allowed to reenter the program if the need arises.

HANDS has worked closely with the Housing Authority of Louisville in its conversion of the LaSalle Public Housing Project to LaSalle Condominiums.

In this successfully federally funded \$7 million condominium conversion grant application, Housing Authority of Louisville was able to cite the HANDS leadership, job, education and homeownership training components as part of the match combination. A major, two-year rehabilitation project exceeding \$7 million will transform the outdated, 55-year old LaSalle Place Public Housing Development into new condominiums that will provide attractive and affordable homes for first-time, low income buyers. The development will offer one, two, three, and four bedroom homes complete with new kitchens and baths. The homes will feature central air, patios, wall-to-wall carpeting, major appliances, and dishwashers. The homes will also offer offstreet parking and onsite playgrounds for children. Many of the homes will have washer-dryer hookups while others will be served by onsite laundry rooms.

Perhaps the best feature of the new LaSalle Place Condominiums is the purchase price. LaSalle Place is now selling 150 attractive, up-to-date, low priced housing units which range from \$18,000 for one bedroom units to \$36,000 for four bedroom, two-bath cottage units. These prices allow households with annual incomes as low as \$10,000 to qualify for homeownership. Buyers must also be first-time homebuyers. However, for the homeownership program to be a success, a multifaceted effort like HANDS must be put into place (Stegman, 1991; Rohe & Stegman, 1992).

One component of HANDS will be to develop linkages with local banks and financial institutions so that individual residents, developers and contractors will have access to the best possible financing. The largest portion of most mortgage payments is interest, which is also a significant cost for developers and contractors. Therefore, the goal will be to hold down these costs to make affordable housing available. This can be accomplished only by increasing the number of sources of possible financing for individuals who have completed the homeownership counseling program and others already qualified, as well as for developers and contractors to encourage production of affordable housing in the target areas. As part of this strategy, a housing fair is being organized for the Russell and La Salle housing developments to encourage the African-American middle class to move into these historic neighborhoods. Builders, bankers and community leaders will be brought together to help "reframe" Russell/La Salle from a poor, unattractive crime-ridden neighborhood to a place that is "on the rebound" with attractive middle class homes and community amenities (Capek & Gilderbloom, 1992).

The Housing Partnership, Inc. (HPI), will be a team member in this component. That agency has been involved in the Russell neighborhood, assisting a developer obtain financing, equity arrangements and investment tax credits that resulted in 50 new or rehabilitated affordable units. The partnership also brought in a local bank which arranged the financing for the Hampton Place multifamily project in the first phase of the Russell Urban Renewal Project and assisted other developers in other areas of the city.

HPI has used its know-how to involve financial institutions and developers in producing affordable housing. This cooperative effort has enabled financial

institutions to comply with the requirements of the Community Reinvestment Act and developers to build needed affordable housing. As part of this program, HPI also brings qualified home buyers and lenders together so that the needs of both parties (the one under the Community Reinvestment Act and the other for affordable and available financing) can be matched. Through the Housing Partnership and its close relationship with local financial institutions, the most comprehensive and timely information concerning the availability of mortgage funds, competitive interest rates, and differing lender requirements and standards are available to qualified home buyers to assist in selecting a lender and in processing the loan. HPI also helps coordinate area banks so they can effectively meet the Community Reinvestment Act in Russell and La Salle.

Community Design

HANDS Community Design resource team is preparing design guidelines for barrier-free living, creating a neighborhood development plan and assisting nonprofit community development corporations. These programs ensure a stable homeowner market and, thus, a stable neighborhood.

The first part is structured to assist residents and developers in planning, design, code compliance, obtaining required regulatory agency approvals and producing energy efficient and affordable housing designs. Advice is given to residents who want to bring properties into code compliance or to make improvements on existing structures. Special attention is given to the needs of disabled and elderly residents, assisting them to make their homes barrier-free and avoiding premature institutionalization. Advice and assistance are available for renovation or construction of new affordable housing.

The second part is empowering neighborhood groups to become developers and contractors by helping them meet agency processing requirements, putting together financing packages, and meeting ongoing procedural requirements as construction progresses.

A third part is preparing a detailed neighborhood development plan for Russell. The Russell Neighborhood Development Plan is a comprehensive analysis of neighborhood needs and concerns covering public improvements (sewer, street and sidewalk repairs, abandoned buildings and houses, recreation and commercial use). It will also try to create a vision of what Russell could look like in the future.

A fourth part is providing technical assistance and training about defensible space design which can significantly reduce crime in a neighborhood. (It is not possible to revitalize a neighborhood or encourage homeownership if the target area is not safe). The University of Louisville National Crime Prevention Institute will provide training for community leaders in building renovation and crime prevention through environmental design as well as other aspects of crime prevention.

Community Design Team Efforts

The community design team, after consulting with Louisville City HUD, began gathering information addressing the best role the design team could play in revitalizing the Russell area. HUD's main concern was a "too many soldiers and no generals" situation. Jim Allen, Director of Louisville HUD, was worried that the new interest in the Russell area would prompt builders to construct dwellings randomly without a master plan. HUD's initial solution was to divide the Russell Urban Renewal Area into development sectors controlled by the Planning Commission.

In this way the city could control the level of development and be selective of the developers. This was helpful, but the sectors were large, still approximately ten-block parcels, and required careful planning and even more careful execution.

HUD's Jim Allen suggested the design team might assist the Louisville Central Development Corporation design a master development plan for one of the sectors. This was the crucial beginning that allowed the team to identify a client and define the scope and goals of the project.

The design team began work with the Louisville Central Development Corporation (LCDC), a Kentucky nonprofit corporation dedicated to addressing a broad range of housing, economic development and social service issues. The initial goal of the partnership was to help LCDC obtain Approved Developer Designation for a ten-block section of the Russell Urban Renewal Area. Developer designation would grant LCDC exclusive developer rights in the specified area.

The requirements for designation were:

- (1) Describe the development area with a development plan and a narrative description.
- (2) Provide a broad outline of proposed development area.
- (3) Provide a development schedule showing preliminary start date for beginning development.
- (4) Obtain approval from the Russell Neighborhood Advisory Committee made up of residents from the area.
- (5) Present plan to the Urban Renewal Commission.

In January 1993, LCDC formally requested technical assistance from the HANDS design team with the initial planning meeting set for February 2, 1993. The design team evaluated the scope of work and established a timeline schedule in order to meet the deadline of March 23, 1993, for the presentation to the Urban Renewal Commission. On March 9, 1993, the LCDC board approved the proposal unanimously. On March 16, 1993 the design team submitted the proposal to the Russell Advisory Committee for review and comments. Not only did the committee unanimously approve the proposal, the committee requested the design team to prepare a development plan for the entire Russell Urban Renewal Area (quickly expanding the role of the design team). On March 23, 1993, the Urban Renewal Commission unanimously approved the proposal and granted Developer Designation to LCDC.

Components Of Community Design Team Development Plan

The design team identified the following components to investigate in designing the development plan:

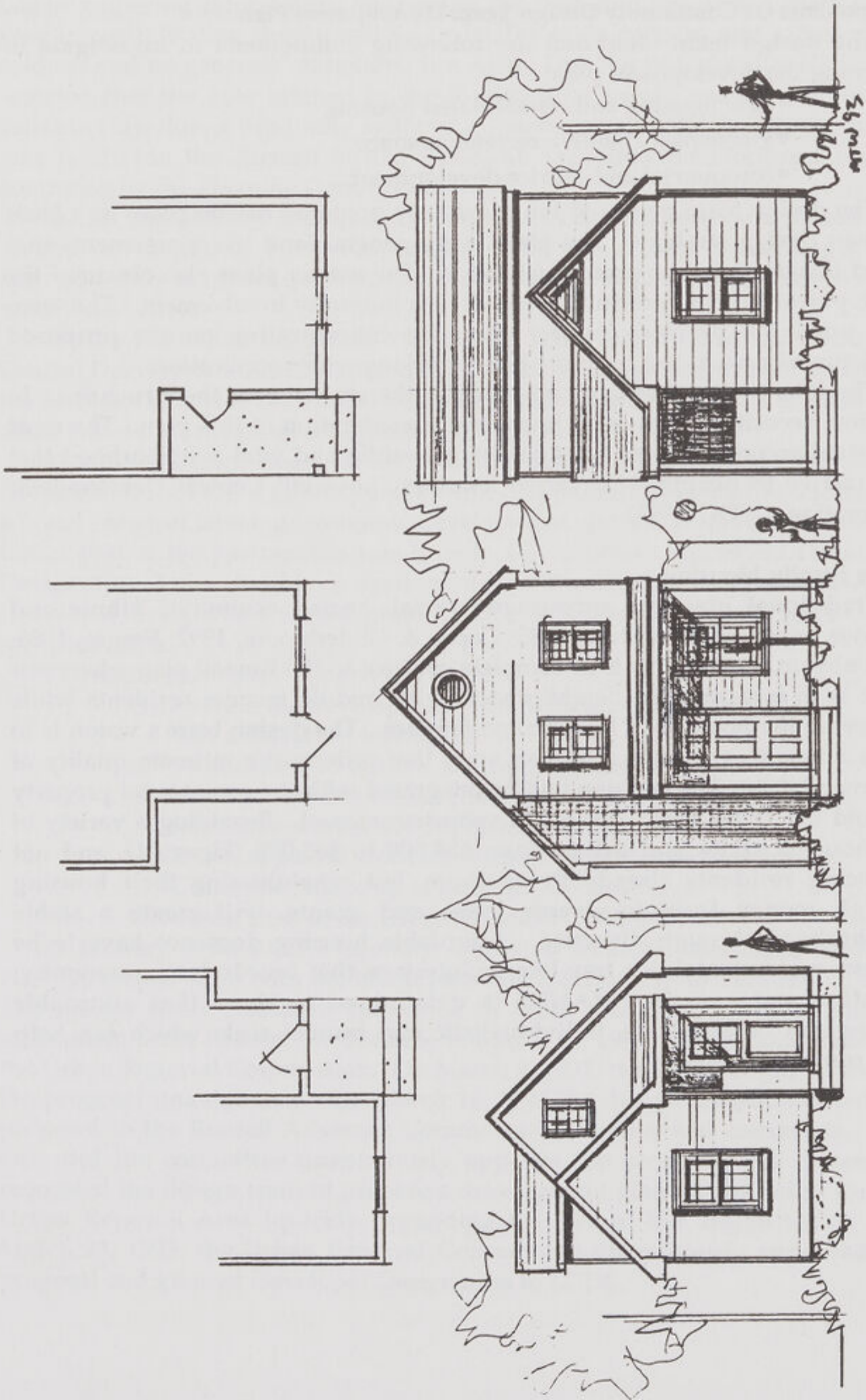
- new housing and rehabilitated housing
- greenspace/passive recreation space
- commercial and service development

The design team reviewed the previously prepared master plans as a basis for their design strategy. The plans were general land use assessments that lacked imagination and conceptualization. The master plans also obscured the development process precluding effective community involvement. The team built upon the previous master plans by concentrating on the proposed development area to test concepts before seeking wider application.

The intent is to maintain and enhance the character of the structures. In addition, security design is an important consideration of this plan. The most important security feature is, of course, a healthy and vital neighborhood that is attractive to people with varied incomes (Louisvill Central Development Corporation, LCDC, 1993).

Single Family Housing

Traditional planners encouraged racial, social, economic, ethnic and religious homogeneity (Silver, 1985; Capek & Gilderbloom, 1992; Feagin, 1988, Tannenbaum, 1948). This is in complete contrast to the Russell plan where our intent is to integrate the neighborhood with middle income residents while preserving the housing of low income families. The design team's vision is to create a neighborhood at a human scale that reflects the intimate quality of the urban fabric. The housing will be integrated with the commercial property to avoid the "strip mall" disease of suburban sprawl. Providing a variety of new housing styles and prices, from \$38,000 to \$65,000 (Figure 1), and not displacing residents already living there, but rehabilitating their housing through money from forgivable loans and grants, will create a stable neighborhood through diversity. Affordable housing does not have to be faceless, monumental, ice tray-like architecture that breeds fear, anonymity, alienation and anomie. HANDS is determined to show that affordable housing can be attractive, individualistic and human scale which can help foster community.



Proposed Housing Designs for Russell Area

As new housing is constructed, sidewalk improvements, street landscaping and the creation of a new built environment will follow, thereby improving the quality of the neighborhood and the lives of its residents.

Greenspace and Passive Recreation

A wonderful opportunity exists in our plan for a passive recreational greenspace park in the Western Cemetery, the focal point of affordable housing development. The cemetery was abandoned years ago and the records of burial have been lost. It is a beautiful elevated greenspace located in the center of the development area. Coordinating our efforts with the Louisville Design Center, which has done extensive archeological work to locate the grave sites, we propose planting new trees in strategic places that will not disturb the grave sites. We propose meditation areas in the cemetery, access ramps for the physically challenged and a memorial fountain in memory of the unidentified grave occupants.

Commercial and Service Development

We are encouraging businesses compatible with the quality of the neighborhood, such as a branch bank, barber shop, restaurant, etc., to set up operations. Service businesses, such as a multigenerational development center and other businesses, could make valuable contributions to the quality of life. These businesses will provide services not only to the immediate neighborhood, but to the areas beyond. HANDS will also provide start up businesses with expertise in management, employee relations, marketing, accounting and customer service with University of Louisville graduate interns from its Masters in Business Administration program.

Difficulties And Ways To Succeed

Political posturing between minority organizations, minority nonprofits, politicians, for-profit developers and infighting and competing interests in the neighborhood are political fences the design team must straddle. In Russell, different groups have different motives that vary from money and power to philanthropy. These factions unite under one issue: housing. Housing is the common thread that unites profit with good intentions. It allows the design team the extra balance to stay on the political fence. We are helping someone make a profit while doing the right thing. Further, our intent is to avoid gentrification and extensive demolition, to preserve the architectural character of the site, but also to avoid the political, social and economic failures and stigma of previous urban renewal efforts. By understanding the political pros and cons, the design team guides the different factions toward good planning and design. As a nongovernment agency, the design team is concerned with doing the right thing rather than with political considerations.

Perhaps the biggest challenge is the difficulty in bringing together and educating nonprofit groups, academic institutions, city agencies, builders and

the public in the design and development process. In most cases this is a slow process, but the design team feels this approach to development is the most fruitful path and the future of planning.

Project Evaluation

A Community Advisory Committee was established for the HANDS project which includes leaders from banking, labor, government and housing organizations from the program area. The committee intends to evaluate the effectiveness of the HANDS program. HANDS will use the information from the evaluation and other sources to determine the viability of each component of the program. Those programs found lacking will lead to change of personnel, reevaluation of the goals and objectives of the program or cancellation of the component.

The membership of the Community Advisory Committee includes: a banker, a realtor, a developer, representatives of the area, residents councils, representatives of the Housing Authority of Louisville, representatives of the University of Louisville and representatives of the Russell Area Development Task Force. Every attempt was made to make the Community Advisory Committee an inclusive group of professionals and paraprofessionals who hope to ensure the redevelopment and revitalization of the city's most needy neighborhoods.

The Community Advisory Committee will consist of several focus groups that monitor the effectiveness of the project as a whole.

The Community Advisory Committee will provide input concerning problem identification, development of criteria and performance standards, data collection, data analysis, development and documentation of corrective action plans and followup/reevaluation to the HANDS evaluation team.

Similarly, a National Advisory Committee has been created to evaluate the HANDS program. The National Advisory Committee members are I. Donald Turner, Executive Director of Bridge Development Corporation, one of the largest developers of low income housing in the United States, and Marilyn Melkonian, President of Telesis, a major low income housing developer and former Deputy Assistant Secretary of Housing and Urban Development under former President Jimmy Carter. The National Advisory Committee will make annual visits to Louisville to tour the HANDS target areas, review evaluation reports, and meet with members of the HANDS Community Advisory Committee and persons in charge of the various HANDS resource teams. Each member of the National Advisory Committee will produce an evaluation report that reviews the strengths and weaknesses of the HANDS program.

Conclusion

HANDS is a partnership where success is based on cooperation with business, community and government groups. Mayor Jerry Abramson and the

City of Louisville Board of Aldermen have played major roles in revitalization efforts of Russell. The Mayor and Board of Aldermen have provided extensive resources to help the Russell and La Salle neighborhoods. Millions of dollars in public and private funds are being invested in the HANDS target area. The City of Louisville is planning to spend over \$2 million in the next year to revitalize Russell, \$1.1 million in public improvements and \$900,000 for neighborhood rehabilitation. Another \$10 million was spent developing the 150 unit apartment complex, Hampton Place, which is the anchor for Russell. Russell, along with two other neighborhoods, is eligible for grants up to \$600,000 for community housing development corporations to build new single family housing for households earning up to \$27,000 a year. In addition to these programs, Louisville has funding for a citywide homestead program (\$1,350,000), programs for elderly aging in place (repairs for elderly and disabled persons totaling \$512,000), and a rehabilitation investor program (\$450,000). HANDS hopes to organize residents, so that Russell and La Salle can take advantage of these citywide neighborhood and housing programs.

While the city has provided much of the bricks and mortar, HANDS, according to Mayor Jerry Abramson, "helps rebuild lives." Activity has stimulated interest from the private sector. One multimillionaire developer, in conjunction with a minority nonprofit organization, has announced plans to build 100 cottage-style homes ranging in price from \$48,000 to \$58,000. Another development is renovating historic buildings in the area for rent, and another involves siting attractive manufactured housing that resembles the historic housing of Russell. Currently, HANDS is attempting to match African-American investors who want to learn how to build affordable housing with established Louisville developers committed to the Russell neighborhood.

Louisville mirrors many of the nation's urban ills with high homelessness rates, excessive rent-to-income ratios, neglected inner city neighborhoods, and a large number of impoverished persons who are without the training and education skills to be employable. The HANDS strategy is to develop a partnership with the university, community, government and business. HANDS will lead in developing and securing the necessary resources to support the aspirations of residents in the target areas. The goals of the University of Louisville for the HANDS proposal are to provide expert faculty technical assistance, monitor projects, conduct program evaluations, provide administrative assistance and conduct training seminars for the Russell area. The project is carried out either by community or government leaders with demonstrated track records of success. Our hope is for HANDS to demonstrate that it is possible to revitalize an impoverished neighborhood, provide housing ownership for low income persons, create job opportunities for the unemployed and teach empowerment strategies to the poor. If the success of our young program is a measure of progress to come, HANDS, in partnership with this community, has a very bright future. We think the partnership that HANDS has facilitated could be a model for the rest of the nation. In many ways, HANDS is akin to the agricultural component of traditional land grant

universities that provides state-of-the-art information to farmers on the best kinds of seeds for crops and food for animals. HANDS represents an important pioneering effort to offer help to an impoverished neighborhood. With higher education institutions under increasing public scrutiny, HANDS represents the future of where universities should be heading: becoming a viable community partner that helps solve our most pressing societal problems.⁵

References

- Capek, Stella & John I. Gilderbloom. (1992). Community Versus Commodity: Tenants and the American City. Albany, New York: State University of New York Press.
- City of Louisville Office of Housing and Urban Development (1990). Comprehensive Housing Affordability Strategy (CHAS) 1992-1996. Louisville, Kentucky: City of Louisville Office of Housing and Urban Development.
- Durbin, Steve. (1992). Bluegrass State Poll, Courier-Journal April 27.
- Feagin, Joe. (1988) The Free Enterprise City. New Brunswick, NJ: Rutgers University Press
- Gilderbloom, John I., & Richard Appelbaum. (1988). Rethinking Rental Housing. Philadelphia, Temple University Press.
- Gilderbloom, John I., Richard Appelbaum, Michael Dolny, & Peter Dreier. (1992). Debating the Causes of Homelessness. Journal of the American Planning Association, 58, 220-224.
- Jefferson County Community Development Office. (1991). Comprehensive Housing Affordability Strategy for Jefferson County (CHAS). Jefferson County, Kentucky: Jefferson County Community Development Office.
- Kotler, M. (1979). "The Purpose of Neighborhood Power." South Atlantic Urban Studies Journal, 4:23-31.
- LCDC (Louisville Central Development Corporation). (1993). Russell Neighborhood Development Plan. March 1993 LCDC Author.

⁵We would like to gratefully acknowledge the help and assistance of Stephanie M. Morris, Angela Keene, Russ Simms and the entire HANDS team leadership.

- Leadership Louisville Foundation. (1989). Creating Affordable Housing Solutions in Louisville. Louisville, Kentucky: Leadership Louisville.
- Lowry, Ira S. (1992). "Rent Control and Homelessness: The Statistical Evidencer." Journal of the American Planning Association, 58, 224-226.
- Rohe, William M., & Michael A. Stegman. (1992). "Public Housing Homeownership: Will It Work and for Whom?" Journal of the American Planning Association, 58, 144-157.
- Silver, Christopher. (1985). "Neighborhood Planning in Historical Perspective." Journal of the American Planning Association, Spring 1985.
- Stegman, Michael A. (1991). More housing, More Fairly: Report of the Twentieth Century Fund Task Force on Affordable Housing. New York: Twentieth Century Fund.
- Tannenbaum, J. (1948). "The Neighborhood: A Socio-Psychological Analysis." Land Economics, 24(4) November:358-369.

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COMMENTARY**EDUCATION IS MORE THAN THE
THREE "R"'S**

Sanyika Anwisyé¹

"Wisdom is when your actions and opinions coincide with God's will. It is the goal of God-based Afrocentric education to help its students develop that type of wisdom. Children so-imbued become adults who possess the moral direction, intellectual fervor, cultural/political intelligence and the desire necessary to work for the advancement of their people and to be of service to humankind."

As we survey this historical and current state of affairs of African-Americans, we too often focus myopically on an all-too-familiar litany of problematic events and conditions. For many, words and phrases such as "slavery," "underprivileged," "gang warfare", "unemployment," "teen pregnancy," "school failure" and a seemingly endless list of descriptions of deficit and weakness, have become synonymous with the African existence. Although such tragic conditions existed and continue to exist, perhaps the greater tragedy is for the self-image of African (Black) people to be limited to such narrow and negative terms, thus neutralizing our ability to collectively build on our strengths and change our condition.

Amid the challenges, problems and, indeed, crises our people face, we also have success stories and the almost unbridled ability to - as a people - meet those challenges, overcome those problems and transform those crises from closed rooms of danger to open doors of opportunity for our collective advancement. In this brief article we shall give an overview of one of those success stories: Afrocentric education.

Afrocentric education is a systematic and comprehensive method of equipping black youth with the will and the skills necessary to effectively and collectively solve the problems and meet the challenges that confront our people and humankind.

One may ask why such an education is necessary. Afrocentric education begins with the premise that all wisdom and knowledge begin with the Creator and that it is God who charges each human being to use his/her knowledge to work with others to end oppression and assure that humanity's needs, such as equitable food, shelter, health care and physical security are

¹ Co-founder and principal of the 14-year-old Frederick Douglass Institute (FDI), an independent K-8 elementary school in St. Louis. He is also a member of the faculty of Washington University's African and African-American Studies Department where he teaches Black Psychology.

met.¹ It further acknowledges that feelings of duty toward such a charge do not come automatically at birth - that such feelings are a taught characteristic. It is an accepted and traditional practice for nations, races and cultures to utilize education as a vehicle for instilling patriotism in their members. This vague concept of "patriotism" manifests itself in the collective sense of a people that it is their duty and responsibility to meet the challenges and problems inherent in the maintenance and development of their society. Without this collective sense of obligation, a nation's problems and challenges would go unmet then grow and fester while the nation's future withers and dies.

It is not contested by the human family that while others may help a nation or society, the responsibility to confront the problems and challenges of that society belongs first and foremost to that society. For example, while others may help, the problems of the French people are first and foremost the responsibility of the French people to solve. The same goes for the problems of the Argentineans, the Bahrainians, the Canadians, and so on; it is a reasonable and traditional expectation that a people participate in and take the lead in meeting their challenges.

In most societies, this call to duty, this education, is issued steadily - from the womb to the tomb - by five major social institutions: the family, religious organizations, the schools, the media and storytellers and general civic and community organizations. In America, it is no different. The daily rituals of schoolchildren reciting a pledge of allegiance or singing an anthem to "the land of the free and the home of the brave" have little to do with reading, writing and arithmetic, nor are they simply interesting ways to start a school day. Cultural myths such as Superman and his quest for "truth, justice and the American way" are not simply entertainment. Boy Scout and Girl Scout troops are not simply interested in teaching knot-tying and camping skills. All are part of a larger process called "education" which seeks to instill a sense of allegiance, respect, responsibility and accountability to America, its agenda and the solution of its problems and advancement of its society. Meanwhile, only a cursory review is needed to reveal that conspicuously absent in this education (which historian Carter G. Woodson would call "miseducation") is a clear and consistent call to duty for African-Americans to solve the problems of

¹ Traditional African thought declares the centrality of the Creator in all of life: art, agriculture, science, education, etc. It holds that God is a spiritual being and the origin of all good qualities, including kindness, justness and responsibility to the welfare of the community. The goal of traditional African societies, and thus their educational processes, was to bring forth within their members these "God-like" qualities. For more information on the concept of Supreme Being and its relation to African philosophy, social order and education, the reader is referred to the following: N. Akbar From Miseducation to Education (New Mind, Jersey City, 1982); S. Anwisy The Plan: Level 6 - Our New Day Begun (Imani, St. Louis, 1984); C. Kamalu Foundations of African Thought (Karnak, London, 1990); & J. Mbiti African Religions & Philosophy (Praeger, New York, 1969).

African-Americans (or Africans elsewhere). Afrocentric education fills that void.

In America today, countless black families, an increasing number of religious institutions, over 40 full-time elementary and secondary schools, a handful of media organizations and entertainers and over 200 Saturday and afternoon programs have taken the bold step of participating in the Afrocentric education of an estimated 100,000 youth. These efforts, particularly the schools, are characterized by an unwavering commitment to and record of academic achievement as well as the production of caring, self-disciplined students replete with the technical skills and moral/cultural values needed to be of service to their race and humankind.

These programs stress academic excellence because they realize that all the Kente cloth, African-based ceremonies and revolutionary slogans in the world cannot build housing, feed the hungry, heal the sick or defend the innocent. To do so - and thus to build healthy, self-reliant communities - requires the crafts of skilled mathematicians, bricklayers, teachers, parents, architects, physicians, writers, plumbers, accountants, legal scholars and others. On the other hand, these programs also understand that all the academic preparation in the world cannot guarantee effective solution of the problems which confront us. We already have B.A.s, M.A.s, M.D.s, M.B.A.s, Ph.D.s and Ed.D.s in relative excess in our community but few who have been taught how to, or even that they should use their skills to change the condition of our people.

Toward this end, as is typical of educational systems, Afrocentric educational institutions conduct a curriculum and instructional process which synthesizes teachings which develop the will and the skills needed to effect change. Rather than telling students (as they are so often told) to get a good education so they can individually "escape the ghetto," they are exhorted to use their education to collectively reform the "ghetto" and replace it with a whole and functioning community.

In typical business courses students learn about Wall Street and, more importantly, how to remove poverty and improve life on our streets. For example, the poverty mentality is broken as they explore creative uses for the \$300 billion combined annual income of African-Americans (estimated to be the 15th richest economy in the world). Thrift is encouraged as they learn that the \$3 billion spent annually by the black community on alcoholic beverages is enough to build 60 full-service hospitals or 6000 farms, the presence of which would improve health care and nutrition while simultaneously increasing employment or, that a redirection of the money spent disproportionately on luxury items (e.g. although only 12 percent of the population, blacks purchase 30 percent of the Cadillacs) could strengthen entrepreneurial networks in the community as well as directly support college and trade school scholarships and self-help projects.

Molding a personality equipped with conflict resolution skills, nonviolent strategies and the general ability to share, cooperate and react to the needs of

others is stressed in the true Afrocentric curriculum, because, unless egos, insecurities and petty conflicts can be "checked at the door," there is little hope for progress in the black community. Such skills are crucial in building and maintaining peace and unity in our families, neighborhoods, organizations, the race and, ultimately, the human race. It is refreshing to see children in these programs, with a wide range of personalities and backgrounds, interact with their peers and adults with courtesy, cooperation and respect rather than abrasiveness, conflict and disrespect.

Self-discipline and self-esteem also flourish in the Afrocentric atmosphere where each child's strengths and accomplishments are applauded by his/her peers, and a child's physical appearance, or athletic or academic shortcomings are not laughed at or ridiculed. Confidence and joy in mastering new and challenging academic and social situations grow as children are presented with accomplishable tasks and then asked to stretch to attempt the previously unaccomplishable, knowing that true failure does not occur as long as one's best effort is given.

The social studies curriculum includes world, national and local history, geography and current events. It presents an accurate picture of our role in history so that students learn that we too are God's children, not stepchildren. It documents that we were not always slaves, that in fact the larger part of our history occurred prior to enslavement on a continent whose contributions to world civilization are as great as the contributions of any other. This helps immeasurably in keeping children from growing up with the subconscious feeling that they are inferior people because they came from an inferior continent; or, because they know of no history prior to enslavement, that they have somehow been genetically, divinely or characterologically relegated to second-class status and perpetual servitude. The curriculum goes beyond memorizing names, dates and places and "being proud of our heritage." Empty "ebony tower" discussions of "our great and glorious past" give way to careful analysis of the strengths and weaknesses, successes and failures of the world's peoples. Particular attention is given, however, to the way events and decisions have affected and are affecting black people. Events and decisions are also evaluated in terms of whether they were just, regardless of whether black people were involved, or were involved as victim, perpetrator or beneficiary. It has been shown that when children taught in this manner become decision-makers themselves - from the family level to the world level - they continue to weigh their own decisions in light of their justice potential and how they may affect the group.

Parents and teachers work together to create a home-school environment full of media, entertainment and recreational activities that encourage positive values and are free of the psychologically damaging images of family disunity, sexual irresponsibility, violence and subtle racism. In doing so, Afrocentric education does not take children out of the "real" world, but equips them with more effective tools with which to deal with life's challenges. It is in such an atmosphere that a sense of moral values is instilled which militates

against crime, drug use, teen pregnancy and even lying, gossiping and backstabbing - all of which can deteriorate a community no matter how politically and culturally progressive it perceives itself.

In conclusion, although the work of education is an ongoing process and privilege, our experience has shown that with unity, perseverance and a "can-do" attitude, changes can be made and responsibility to our people and humankind can be taught. Perhaps the greatest privilege is the humbling experience of looking at our children while they read books, learn multiplication, play with jacks, jump rope and play ball, but also adopting the motto of "we-first, not me-first" and innocently discussing how they can use their future careers to help our people and humankind. Looking, you know right there, before your eyes, is the future of our race and of our planet. A modern day success story.

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DISCUSSION**OPERATION WEED AND SEED: COMMUNITY
POLICING, CIVILIAN REVIEW AND CONFLICT
RESOLUTION FOR MAYORS**

*Workshop given by the 19th Annual Convention of
the National Conference of Black Mayors. New York City
April 16, 1993*

Panelists:

The Hon. Alton R. Waldon, Jr. - Senator, New York State Legislature

*Ms. Marilyn Oliver - Program Manager, United States Department of Justice
Bureau of Justice Assistance*

Hon. Sheldon S. Leffler - Member, New York City Council

*Dr. Elsie Scott - Deputy Commissioner for Training, New York City Police
Department Academy*

*Professor Hezekiah Brown - Director, Labor-Management Programs
and Conflict Resolution, Cornell University*

*Professor Sylvester Murray - Director, Public Management Programs, Levin
College of Urban Affairs, Cleveland State University*

Moderator:

*Dr. William G. Lewis - Assistant Professor of Public Administration and
Criminal Justice, Long Island University*

Dr. William G. Lewis: Good morning mayors and friends of the National Conference of Black Mayors. Welcome to workshop number three, Operation Weed and Seed: Community Policing, Civilian Review and Conflict Resolution. My name is William G. Lewis. It is my honor and privilege to serve as moderator for this morning's program.

This workshop will focus on the tenets of Operation Weed and Seed, the National Conference of Black Mayors' technical assistance support program for twenty-one participating cities¹, in cooperation with the United States Department of Justice, the Conference of Minority Public Administrators (COMPA) and the National Organization of Black Law Enforcement Executives (NOBLE).

¹The participating cities are: Atlanta GA; Charleston, SC; Chicago, IL; Chelsea, MA; Denver, CO; Ft. Worth, TX; Kansas City, MO; Los Angeles, CA; Madison, WI; North Charleston, SC; Omaha, NE; Philadelphia, PA; Pittsburgh, PA; Richmond, VA; San Antonio, TX; San Diego, CA; Santa Ana, CA; Seattle, WA; Trenton, NJ; Washington, DC and Wilmington, DE.

Through Weed and Seed cities, mayors can forge credible alliances with community and religious leaders and police and city government efforts to improve the quality of life of citizens. In addition, the program can help to promote employment opportunities and economic development; and reduce crime substance abuse and conflict and tension between the city's various racial and ethnic groups and the police. The objective of empowering mayors to become more effective leaders in implementing local Weed and Seed strategies will be accomplished through a technical assistance and training program provided by the National Conference of Black Mayors to the twenty-one participating cities. These cities are funded by the United States Department of Justice.

Now the purpose here is that the mayors would develop a better understanding of their roles in implementing Weed and Seed strategies. It is expected that some thirty new municipalities will be designated by the Department of Justice in Fiscal Year (FY) 1993 and possibly Fiscal Year 1994. In order to promote fresh ideas for public/private partnerships through Weed and Seed, an exploratory forum is needed - one that addresses the successful approaches and new avenues of impact that are being examined across the country at other Weed and Seed sites, or by other promising community-based initiatives. This is the first of these exploratory forums, and we will hear from a very distinguished panel this morning.

Two important mutually reinforcing functions of the mayor's office have been identified, and they provide the administrative and political framework within which Weed and Seed strategies are expected to work. The first function is the executive function of the mayor's office. The mayor has to make decisions concerning membership on Weed and Seed steering committees, the coordination of the activities of relevant municipal departments, adjustments in the policy and regulatory structures within which neighborhood activities are performed, and reevaluation of the adequacy of supply of local goods and services to the communities.

The second function, political and advocacy functions of the mayor's office, also involves coalition building. The mayor's office will have to be actively involved in providing leadership to reestablish a sense of neighborhood or community and a sense of greater access to City Hall for previously disaffected or alienated groups. Also, the mayor and his staff would be building coalitions among the disparate groups within the city moderating conflicts between groups with adversarial histories, for example, the police department and some inner city neighborhoods. There may be tension there, and, of course, that is a very important and central concern with respect to Weed and Seed - that we develop better relationships between the police and the community. It is also important to develop a perception as well as a reality of visibility and accessibility. In addition, we need to pro-actively manage public attitudes towards crime and the mass media's role in fostering community perceptions of neighborhood safety. Of particular importance, we want to stress the point which deals with moderating conflicts between groups that have been historical adversaries.

Mayors can profitably look at seeding strategies, targeting the local law enforcement agencies themselves. In many cities across the country, reform has become an implicit part of new approaches to providing police protection, through calls for community policing of various sorts. These approaches try to bring the police departments and the target communities together to reestablish the notion that there are shared interests in having safe, relatively crime free communities.² Mayors might consider such strategies concerning the civilian review of allegations of police misconduct, the use of unnecessary force in effecting arrests or community conflict resolution.

We are indeed fortunate to bring to this convention some of the best minds in America. Our workshop on Operation Weed and Seed assembles a most distinguished and outstanding panel of public servants, experts in their own rights, to share their thoughts with you, the committed, dedicated, African-American mayors and friends of the National Conference of Black Mayors.

We are also fortunate to have a very distinguished and committed panel. I am proud to have the privilege of introducing them. We are going to ask them if they would keep their remarks to about ten minutes each. That way we can get through with their presentations and then have you interact with the panelists to share your thoughts, or to raise questions that they may be able to help answer.

In his remarks, the Rev. Jesse Jackson pointed out that he had to leave here to go out to Los Angeles, and, then, he is coming back to the convention, but he wanted to be in Los Angeles last night. He said, and it is so important with respect to Weed and Seed, that "Perhaps we would not have had a Rodney King situation had we had Weed and Seed at the time the incident occurred several years ago." He also pointed out and stressed that the Rodney King situation has moved onto center stage because there has been no plan for economic development, for reducing the unemployment rate in Los Angeles, that the unemployment rate among African-American males, in particular, is hovering around the 50 percent mark. There is nothing but despair there. There has been no systematic comprehensive plan for improving the quality of life for all residents of Los Angeles, and that is instructive for all of us here in our various cities around America. I thought that the Reverend Jackson's remarks yesterday were very timely and kind of set the stage for our situation. He pointed out the international context as well. He said, "If you read today's paper..." [yesterday's paper, that is] "...you will find that there are three issues that are highlighted in the news media today, that is, South Africa, Haiti and Los Angeles -- Watts and South Central LA." He said, "Now if you do not see that connection, then we have to regroup." But I think we all see the connection, and I think we all see the importance of all of the groups coming together: mayors, professionals, public administrators, professionals of all

²Michelle Kourouma, Executive Director, National Conference of Black Mayors. Technical Assistance Program of Operation Weed and Seed, A Proposal. September 17, 1992

types, to bring about the kind of change that we need in America. President Bill Clinton has expressed this concern through the Secretary of HUD, Henry [Cisneros], and I believe Secretary [Mike] Espy is coming, as well, to express the Clinton Administration's support for rebuilding America's cities both from the human resources standpoint, which is a precious commodity, and, of course, from the standpoint of physical infrastructure.

Now, this is our batting order for this morning. We have, leading off, the Honorable Alton R. Waldon, Jr., Senator, New York State Legislature. Senator Waldon is a former United States Congressman. He is formerly the commandant of the New York City Housing Police Academy. He is an attorney and a dear friend.

Then, following Senator Waldon, will be Ms. Marilyn Oliver, who is with us from the United States Justice Department. She is the program manager for the Bureau of Justice Assistance which is under the Justice Department. Her agency administers the grant funds awarded to the Weed and Seed sites. We appreciate her coming and sharing with us the vision that the Clinton Administration, through Weed and Seed, has with respect to improving the quality of life of all Americans in all of our cities, hopefully. I do not know whether he has that much money, but maybe we can get a nice fund raiser going.

Ms. Oliver will be followed by the Honorable Sheldon Leffler who is a member of the New York City Council. Councilman Leffler chairs the Public Safety Committee of the Council, and the Public Safety Committee has oversight responsibility of community policing here in New York City, and also the newly enacted legislation establishing an all civilian complaint review board here in New York City. We are privileged to have Councilman Leffler with us this morning.

Fourth, we have Dr. Elsie Scott. Dr. Scott is presently Deputy Commissioner for Training for the New York City Police Department Academy, and she brings a long, rich history of training and education with her. She formerly served as executive director of the National Organization of Black Law Enforcement Executives (NOBLE), and she really built that organization into what it is today. They would not let her go completely; they made her a member of the board of directors at NOBLE. Dr. Scott also has served in the academic world, and has done a considerable amount of research with respect to police/community issues. She is formerly a professor of urban studies at Howard University and we are delighted that she is with us this morning.

Following Dr. Scott, we have Mr. Hezekiah Brown, who has a distinguished career in community, labor, management, conflict and dispute resolution. Mr. Brown currently serves as director of the labor management and conflict resolution program at Cornell University, the New York State School of Industrial and Labor Relations. Mr. Brown served as commissioner of the Federal Mediation and Conciliation Service for a number of years. Most recently he served as chairman of the New York State Employment Relations Board. He is very active in the community, and we are delighted that he is with us, as well.

Finally, we have Sy Murray. Sy Murray is a marvelous individual, very talented. He currently serves as director of Public Management Programs at the Levin College of Urban Affairs, Cleveland State University. Prior to that, Mr. Murray served as a public management consultant with Coopers & Lybrand. Prior to that he was City Manager of San Diego, California, and City Manager of Cincinnati, Ohio. He has also served as President of the International City Management Association, the American Society for Public Administration. I believe, Sy, you were the first African-American to serve as president of ICMA. Am I correct? And he was the second African-American to serve as president of the American Society for Public Administration.

Dr. Lee Brown, the former Police Commissioner of New York City and Chief Sylvester Daughtry of the Greensboro, North Carolina, Police Department, had hoped to be with us this morning. However, due to circumstances, they could not attend.

Okay, why don't we get started. Senator Waldon.

Senator Alton Waldon: Thank you very much, Dr. Lewis. Good morning, everyone. I am State Senator Al Waldon from the 10th Senatorial District in Queens, and I am honored to participate in this forum, Operation Weed and Seed, the U.S. Department of Justice's program to enhance community policing and neighborhood revitalization. It offers us new hope in reestablishing the mutual trust between our community and our police. By chance or by design, the timing of this conference is prophetic, for at this very moment the eyes of the world are fixed upon the doors of a courthouse in Los Angeles.

We are faced in this country with an ironic contrast of triumph and tragedy, of national pride and collective shame. We can be proud because the decision we all so anxiously await will come as a result of the deliberation of twelve ordinary citizens. Twelve ordinary individuals whom we have asked to perform an extraordinary task. Surely they must, at the least, suspect the magnitude of the decision they are about to make. How could anyone who owned a television set in this country a year ago not recall those graphic images that washed across their screens. How could any literate American not recall the volumes of articles and editorials which relegated all other stories to the inner pages of their newspapers? Yet, these individuals have been asked to block these images from their minds to consume and consider only the testimony they have heard over the past weeks, and to judge as objectively as possible whether the civil rights of Rodney King were violated two years ago.

That this decision rests in the hands of such ordinary citizens is testament to our democratic system. That these people must sit in judgment of four police officers who are accused of making a mockery of that democracy, and that we fear their decision could spark the same violence and destruction that we witnessed last year, should be an object of collective shame to America. It should also inspire within every political leader, black or white, a sense of national urgency. We are witnessing not merely the trial of four police officers; we are also witnessing the trial of this nation.

The very credibility of our justice system and how that system is perceived nationwide, as well as internationally, hangs in the balance. How dare our national leaders sit in judgment of the injustices in other nations while the walk to school for many black children puts them in the crosshairs of a sniper's rifle? And how dare we talk of the triumph of democracy while millions of Americans who feel alienated, deprived and left behind find that their only recourse lies outside legitimate channels? Failure to make as much progress as we should have liked over the past 130 years has helped open our eyes to the magnitude of the problem with which we are confronted. We know that it is not enough to wipe out the institution of slavery. It is not enough to tear down Jim Crow; although those institutions have themselves been tossed to the dust heap of history, their legacy of mistrust, suspicion and hatred is strong. The question remains, therefore, how do we deal with that legacy?

Before we can do anything meaningful we must understand what lies at the heart of the problem. What is the cause of the suspicion and mistrust? Only then, can we effectively deal with the problem. The causes are rooted in unemployment and poverty and despair. But there have always been the poor and unemployed. There has always been a lower class in our society. But there has not always been such anger and discontent and hatred and distrust. There has seldom been such spontaneous and devastating violence. What then lies at the root of this anger and frustration? Is it the singular act of four white cops beating a black man, or does the problem go far deeper? Was the violent response to the verdict last year a sign that something is intrinsically wrong with the relationship between the Los Angeles police and the black community?

The trepidation and anxiety which we as a nation are experiencing as we await this verdict is the product of several interrelated factors. First, our children are nurtured on violence. They see it in the movie theaters; they see it on television, both in the products of Hollywood and on the nightly news, from the skeletal shadows of Somalia, to the ethnic genocide of Bosnia. Our children are taught that human life is of little value.

Second, they respond to the violence around them in much the same way that we have seen little children in Lebanon and Yugoslavia respond. They mimic and they imitate. Violence has become acceptable. It has become the solution to the problems, and those who promulgate it are admired by their younger peers. There is status gained in how well you execute violence.

Third, but maybe most importantly, over the past decade, our society has become addicted to treating the symptoms rather than the causes. Those who don't live within the accepted social norms are removed from mainstream life. We do not care why they commit acts of violence, only that they did so. In the recent past we have gone even further. Those who fit the profile of those who do not live within the rules are removed from mainstream life. And I am sure that you as mayors have had many calls saying, "My child did nothing, but the police just scooped him up and locked him up." We put more cops on the street to catch potential perpetrators now than actual perpetrators. We design a system

of laws whereby kids are jailed simply because they fit a profile. They will surely be violent in the future, so why not deal with them now? The results are appalling. While African-American males constitute under 6 percent of this nation's total population, they comprise almost 45 percent of the nation's prison inmate population. In my state, New York, African-American males constitute only 7.3 percent of the population, yet they comprise over 40 percent of the murder victims.

This is the society in which young African-American males are brought up. It is violent. It is inflexible. And it is unforgiving. For many young men in this country, to be black is to be poor; to be black is to be unemployed; to be black is to be sick; to be black is to be in prison. Young black males constitute almost half of the nation's prison population. It takes no quantum leap in logic for our minority populations to think that our society is dealing with their problems of poverty, unemployment and health by building prison cells for them. They view society with hatred and mistrust, and they target their anger against the most visible symbols of the system that wants to imprison them -- the police.

Do we need to wonder why the country awaits in fear the Rodney King verdict? It is clear that our old way of thinking must be tossed to the same historical dust heap as Jim Crow and slavery. We must try another method. The same topic which we are here to examine today, Operation Weed and Seed, could be that other method. Rather than drawing battle lines between the community and the police, as we have over the past decade and a half, the concept of Weed and Seed is to open lines of communication and instill cooperation. Its two part strategy focuses on law enforcement, "weed," and on neighborhood revitalization "seed."

Weeding establishes a relationship between the police and the community, through community policing. It takes the cops out of the patrol cars and puts them on the beat, effectively removing the glass and steel barrier between the cop and the citizen. They are human beings. They walk without chasing, and they converse without threatening. They become more than just the tool of an establishment bent on putting the black man behind bars. The police and the community get to know and trust each other. The police get to know the kids and the parents; they actually talk to them. They listen to their problems, and they offer their assistance to residents.

The establishment of this relationship has two positive effects for the community. It gets the community directly involved in a mutually beneficial relationship with law enforcement officers, and it increases the level of trust between the police and the community. Citizens feel they can open up. They can talk about the problems of crime which plague their community, and they help the police identify the worst offenders: the drug dealers and the violent career criminals, to get them off the street. They are the ones that belong in the jails. They are the killers of our kids and the saboteurs of our communities.

Seeding involves cooperation between citizens, political leaders and the business community. Through the impetus of the local U.S. attorney, steering committees comprised of community leaders, federal, state and local officials

and the local chambers of commerce are established to identify particular problems in a neighborhood. Once this is done, solutions are researched and proposed, and meaningful and effective programs can be established. The two step Weed and Seed strategy is particularly appropriate in light of our violent present and past. Analysis of the cause of the riots in Los Angeles a year ago generally conclude that trust between the community in which the riot first broke out and the police was nonexistent. The event that triggered the riot, the violent tactic employed by police to capture a young black scaling a fence, was simply the spark that ignited the community, minutes after the word of the King verdict reached them.

Had there been trust, had the police worked within the community by getting to know the residents, and developing real relationships with them, trust could have grown. The fact that the federal government tried to retro-fit a Weed and Seed strategy to South Central Los Angeles after the riots occurred is an indication of how well it has worked in other cities.

So where does the Conference of Black Mayors go from here? We begin to implement a strategy of community healing. We work toward rebuilding ties between the establishments and the citizenry. We go out into communities and pull together in a new spirit of cooperation.

There are currently twenty-one cities participating in Operation Weed and Seed. There are plans to extend [the program] by thirty more, but we have 339 black mayors nationwide, and in each and every one of those cities there is the potential for the kinds of racial violence we have seen in the past. I say to you, ladies and gentlemen, we must put aside the differences we have with rival political leaders. We must get the police out on the beat, so that they get to know the citizens they have sworn to protect, and we must demonstrate to our citizens that we are above the fray, that we can work to bring the business leaders and community activities in our cities together to address these problems.

We have already made gains in this direction in my Senate district. Two years ago, my office mailed out a survey form to every registered voter in the district, asking these constituents to provide us with information about crime in their neighborhoods. The response was encouraging. The forms came back with the names of drug dealers, locations of crack houses and other information that we immediately turned over to the police, who investigated each case and took appropriate action.

In the Rockaway precinct, where crime has become pervasive and violent, the New York City Housing Police has bicycle patrols. Officers get close to the citizenry. They talk to the kids and to the parents. They know the streets and alleys and the people. The results have been overwhelmingly positive. Although crime is still a problem, people feel the police care about them - that they are a part of the community, that they understand the problems of each neighborhood. And as the police become more intimately involved, they learn to anticipate. They learn who belongs [in the neighborhood] and who does not.

The Weed and Seed concept is, therefore, broad and versatile, and it does not need money to implement. Altogether, if it is offered, I am sure none of you would turn it down. It involves maximizing existing resources to the optimal benefit of the community and the country. When we think that it costs thirty thousand dollars to keep a prisoner at Rikers Island for a year, we can surely think of better ways to spend that money. The walls that we should be erecting are the walls of classrooms and university facilities to educate our kids and to turn them into productive citizens who will pay taxes rather than drain revenues.

Los Angeles learned the hard way a year ago. The distinction for which that city is now known throughout the world is one that none of us would care to accept. The Los Angeles riots clearly indicated that the current system does not work. We all know why. The concept of Operation Weed and Seed has demonstrated what can be done. It is now up to us, as leaders in the black community, to begin to build a society that nurtures our black youth, a society that supports the rights for all to live without fear. Thank you.

Lewis: Thank you very much, Senator Waldon. Now we have Ms. Marilyn Oliver, Program Manager, Bureau of Justice Assistance, United States Justice Department.

Marilyn R. Oliver: I am pleased to be able to attend your conference, and give you a brief overview of Operation Weed and Seed.

The Department of Justice and other federal agencies are implementing Operation Weed and Seed, an innovative program, to address the problems of violent crime, gangs, drug use and drug trafficking. It is targeted at those neighborhoods hardest hit by crime, violence and eroding social and economic stability. Operation Weed and Seed is a multi-agency strategy that weeds out violent crime, gang activity, drug use and drug trafficking in targeted high-crime neighborhoods, and, then, seeds the target area by restoring these neighborhoods through social and economic revitalization.

Weed and Seed is currently being implemented in twenty-one sites. We recently added North Charleston, South Carolina, as a Weed and Seed site. There are three principal components of Operation Weed and Seed: coordination and concentration of resources in a specific geographic area; private sector involvement; and community involvement. Weed and Seed is designed to focus existing resources on a well-defined geographic area that is experiencing high levels of violence and drug trafficking. This requires the coordination of existing criminal justice agencies with human services to ensure that they are consistent and provide a comprehensive approach for meeting the neighborhood's needs. Private sector investment is essential to ensuring the success of the Weed and Seed strategy.

Private sector representatives should work closely with public agencies to design, develop and implement weeding and seeding activities. Weed and Seed will affect the private sector by improving the economic conditions of the

neighborhood and the economic status of the residents. It will create jobs and better-skilled potential employees and provide safer areas more conducive to business operations. In return, the private sector should dedicate resources that will expand and enhance entrepreneurial opportunities, job training, recreation, and health services.

Mobilizing neighborhood residents to assist in designing, developing and implementing Weed and Seed activities is an essential part of the strategy. Residents need to be empowered to take responsibility for the neighborhood. Neighborhood watches, marches and rallies and neighborhood clean-up parties to remove graffiti are some of the activities that can encourage resident involvement.

The two primary goals of the Weed and Seed strategy are: to eliminate violent crime, drug trafficking and drug-related crime from targeted high-crime neighborhoods, and to provide a safe environment free of crime and drug use for law abiding citizens to live, work and raise families. One of the major objectives of the Weed and Seed strategy is to develop a comprehensive multi-agency strategy to control and prevent violent crime, drug trafficking and drug-related crime in targeted high-crime neighborhoods. Another objective is to coordinate and integrate existing, as well as new federal, state, local and private sector initiatives, criminal justice efforts and human services. These resources should be concentrated in the project sites to maximize their impact on reducing and preventing violent crime, drug trafficking and drug-related crime. A third major objective is to mobilize community residents in the target areas to assist law enforcement in identifying and removing violent offenders and drug traffickers from their neighborhoods and to assist other human service agencies in identifying and responding to service needs of the target site.

There are four basic elements of the Weed and Seed strategy: law enforcement; community policing; prevention, intervention and treatment; and neighborhood restoration.

Law enforcement must weed out the most violent offenders by coordinating and integrating the efforts of federal, state and local law enforcement agencies in targeted high-crime neighborhoods. This element of the strategy consists mainly of suppression activities designed to target, apprehend and incapacitate violent street criminals. The U.S. Attorney will play a central role in coordinating federal, state and local law enforcement agencies to prosecute targeted drug and/or violent offenders in federal court. They will be subject to pretrial detention, a speedy trial and mandatory minimum sentences.

Community policing is the bridge between the weeding effort, which is law enforcement, and seeding, which includes prevention, intervention, treatment and neighborhood restoration. It involves law enforcement working closely with community residents to develop solutions to violent and drug related crime. Community policing should also help foster a sense of responsibility within the community and serve as a stimulus for community mobilization. It focuses on increasing police visibility and developing cooperative relationships

between police and citizens through techniques such as foot patrols, problem solving, victim referrals to report services and community relations activities.

The prevention, intervention and treatment element of the strategy should help prevent crime and violence from recurring and target neighborhoods. The coordinated efforts of law enforcement social service agencies, the private sector and the community can help prevent crime from recurring by concentrating on a broad array of human services on the target area. Prevention, intervention and treatment should include youth services, school programs, community and social programs, and support groups designed to develop positive community attitudes toward combating narcotics use and drug trafficking. It should also stress ongoing support services for victims and survivors of violent crime.

The fourth element, neighborhood restoration, involves the coordinated use of federal, state, local and private sector resources. It is designed to revitalize distressed neighborhoods and improve the quality of life in the target communities. Resources should be dedicated to economic development, provision of economic opportunities for residents, improved housing conditions, enhanced social services and improved public services in the target areas. The fostering of self-worth and individual responsibility among community members is an important feature of this element.

The Department of Justice is coordinating several efforts with other federal agencies in support of Weed and Seed. We have an interagency agreement with the Department of Education and the Department of Housing and Urban Development to implement the Safe Haven Program in Weed and Seed sites. Safe Havens will provide prevention, treatment, educational, recreational, cultural and other activities to youth and adults in a safe environment free from drugs and crime. Safe Haven will operate before, during, and after hours in neighborhood schools, community centers, or other centrally located facilities.

Another interagency agreement between Justice and HUD will result in the community policing and public housing program. This program will provide training and technical assistance on community policing to public housing officials, law enforcement, residents and other community representatives. Also, we are pleased to report that we have funded the National Conference of Black Mayors to develop and provide a training and technical assistance program for mayors of the Weed and Seed sites. We realize that support and direct involvement of our mayors is crucial to the success of the Weed and Seed strategy. The office of the mayor plays a pivotal role in developing and implementing weeding and seeding strategies, through mobilizing support and resources throughout public and private sectors and demonstrating the needed leadership to address these problems. The National Conference of Black Mayors is developing a curriculum that focuses on the six basic steps necessary for planning and implementing the Weed and Seed strategy at the local level. These steps are:

1. organize and convene a Weed and Seed steering committee
2. select a target neighborhood

3. conduct a needs assessment of the target neighborhood
4. select the resources that should be mobilized to address neighborhood problems
5. identify goals, objectives, and implementation activities
6. develop an implementation schedule

I thank you for your time and attention.

Lewis: Thank you very much, Ms. Oliver. And now we have the privilege of hearing from the Honorable Sheldon S. Leffler, council member, the City Council of New York.

Honorable Sheldon S. Leffler: Thank you very much, Dr. Lewis. Good morning, ladies and gentlemen. I am honored to participate in this discussion at the invitation of Dr. Lewis and the National Conference of Black Mayors concerning neighborhood empowerment, the fight against drugs, community policing, civilian review and conflict resolution. I will comment upon each issue and speak briefly about their interrelationships from the vantage point of my work as chairman of the New York City Council's Public Safety Committee. The Committee has held and will continue to hold oversight hearings on our city's anti-drug strategy, the most recent was held last Friday. Regarding the establishment of an independent all civilian complaint review board, we have an oversight hearing on April 26th to see how this transition is progressing, as well as on the implementation and assessment of community policing.

Why is the change in information processing by the police department so important? It is the transmission of information between the police and area residents, elected officials and a new, independent, all-civilian complaint review board that fosters trust, cooperation and successful problem solving in neighborhoods and forms the basis of successful community policing. Assessing police performance, regardless of management strategy, is a difficult task. Traditionally, increases in the number of arrests and decreases in reported crime have been used as measures to gauge effectiveness. However, since the goals of community policing involve problem solving and crime prevention, productivity measures such as the number of arrests have to be evaluated in a different context.

Changes in the city drug strategy to target higher level narcotics traffickers have also reduced arrests. While reported crime data provides a helpful overview, it does not embody or express a causal relationship between the staffing of neighborhood beats and subsequent effectiveness in fighting crime in a given community during a defined time period. New measures have to be crafted to assess police performance under community policing. In November, 1991, our City Council's Public Safety Committee held an oversight hearing to evaluate the effectiveness of community policing. We sought to avoid program evaluation on the basis of anecdotal evidence with the intention of compelling the department to adopt a clearly-defined specific strategy for

assessing the impact of community policing - including the development of new indicators for assessing police performance. It is our hope to set specific standards for the oversight of this new management plan so that we can determine whether or not it is successful. These standards should evaluate the quality and quantity of information processed by the police department and the effects generated by that information on neighborhood safety.

Two perspectives guide committee efforts to conduct oversight on community policing. The first is the idea that cooperating with the community should lead to improved information gathering, more crimes being solved or prevented, increased clearance and conviction rates and more confidence in the police. And the second is that cooperating with the community should lead to improved information gathering about neighborhood problems enabling them to be substantively addressed. Within the community policing framework, the nature and character of law enforcement information generation and dissemination is inseparable from enforcement initiatives.

One example of the importance of information processing as an ongoing link between officers and the communities they serve is the battle against drugs. If we know that empowering communities to fight back against crime and drugs makes a real difference, then there must be a two-way flow of information. The execution of narcotics enforcement within the framework of community policing requires this. The police department must process relevant information internally and disseminate it with the community. The information may take different forms so that citizens can discern whether community policing is effective. Newsletters and progress reports can indicate whether precinct antidrug initiatives receive county support, whether or not offenders are being referred to treatment; whether or not a needle park is being cleaned up; and whether special efforts are being made to target prevention initiatives for populations at risk. They can also show the impact of antidrug strategies at certain locations; provide updates from the district attorney; and disclose neighborhood crime fighting priorities and the strategies used to address them.

At our oversight hearings on the city's antidrug strategy, community activists testified that this type of communication is not happening and recommended that community policing be better managed. Precinct commanders and beat officers need to be more visible, accountable, and better trained to share information, so the community can fight back intelligently and work constructively with the police. I agree with the findings of the Sunset Park Restoration Committee report that there needs to be greater stability of beat coverage and a more significant degree of organizational involvement through an expanded precinct management team. I applaud the department's decision to issue a community newsletter. I hope that there will be progress reports sent to elected officials on problems being addressed (as council members are the natural allies of the precinct management teams) and to the police department on tracking and expediting community policing neighborhood improvement referrals.

The Public Safety Committee is very interested in reviewing data on the stability of beat coverage, the degree of organizational involvement with the precinct management teams, the number and type of cases solved and priority problems resolved, citizen attitudes toward the police, and perception of safety as well as levels of victimization. We hope the department will pursue these initiatives as part of a multivariant model for assessing community policing at the B-precinct neighborhood and borough levels and will establish a city-wide database, and ultimately share the information and analysis of it regularly.

For community policing to be effective, the police subculture also has to change and the policing mission redefined. This is another instance where information processing plays a vital role. The police department must begin to collect, analyze and disclose new forms of data which set performance standards and can be used to guide a centralizing institution in its transition from reactive to pro-active policing. This includes information about officer attitudes, values and workflow, as well as evaluations from other actors within the criminal justice system. The department must use this data to foster collaborative problem solving and bottom-up participatory management as its key shared institutional values. This new information will also shape changes in recognition and promotion criteria.

I also wanted to comment, but time is limited, with respect to our new all civilian review board in New York City. We are going to be conducting oversight of the board during this transition, and as it begins, this also is an area where there are significant opportunities for collaboration with the new community policing system here in New York City. In my judgement, when we set up this new all-civilian review board, the overwhelming emphasis was on who was going to make the appointments. Should it be the mayor? Should it be the mayor and the speaker? Should it be the mayor and the speaker and the police commissioner? Not enough attention was devoted to seeing that we would have a successful and improved civilian complaint review board. I think this is the challenge that we have to work towards in terms of improving resolution of complaints. Only a very tiny percentage of complaints are ever resolved one way or another; the overwhelming number here in New York City, about 95 percent year after year, are simply not exonerated, not found guilty, and what I would hope is that community policing will increase trust between the communities, between people, and the police department, and that the all civilian complaint review panel will be able to gather data and lead an overall improvement in the functioning of the police department. Both types of initiatives can be interrelated. Both can benefit from being implemented in an intelligent, interrelated manner.

Community policing, community empowerment and the fight against drugs, civilian review and conflict resolution are all policies that have a positive ring, a positive balance. These policies become symbols which politicians need to be identified with -- the totems of political discussion these days. However, our real mission is the difficult one of policy assessment. I hope this discussion reflects the seriousness of the efforts that we are trying to make as we await

word from the City of Angels. I know that we mere mortals have to do a better job of making our ideals of effectiveness, fairness and social justice a reality, and, hopefully through an all-civilian complaint review system and community policing, we can contribute to a greater realization of an effective, fair and socially just police department in relation with the community. Thank you all.

Lewis: Thank you very much Councilman Leffler. Now, we have the privilege of hearing from Dr. Elsie L. Scott, Deputy Commissioner for Training, New York City Police Department Academy.

Dr. Elsie Scott: Good morning. Since I came to New York and started working for the police department, I usually prepare remarks, and I read them. As politicians, I am sure you understand why, because when you get misquoted, you know, that can often have some very negative repercussions, and I learned the hard way when I came to New York that you have to always know what you said. But I think there is no press here today, and I left my speech in my office, so I am going to have to speak from my outline.

In New York we are implementing community policing. This community policing is at the heart of the mayor's Safe Street/Safe Cities program, and it was developed under the leadership of the former police commissioner, Lee Brown, who had hoped that he would be here today, but could not be here. I want to just speak a little bit about the role of the mayor in community policing since most of you are mayors. Then if I have time left, I want to talk a little bit about what your police department should be doing in terms of training. That is my role here with the New York City Police Department. The role of the mayor, I would think, is first to serve as the inspiration to initiate community policing. That is what our mayor has done here in New York City. The mayor has to show that he or she is totally committed to the philosophy. The mayor can often decide that this is the way the city wants to go. Then if you have the opportunity to elect your chief of police, you need to make certain that your chief of police is totally committed to the concept of community policing.

One thing we are finding in this country now is that community policing is so popular that everybody claims to be implementing it. So there are a lot of people that are talking the talk, but there are not very many that are walking the walk. So when you do your interviews if you have the opportunity to select your chief of police, often you will have the person trying to get the talking to talk, and then once he is hired, and I will say "he" because we have very few, if any -- well, we have very few female chiefs of police in this country -- then you will find that then they stray away from it, and it becomes business as usual. In part, this is because the people you hire have been trained in the reactive mode of policing, and so most of them do not really understand the whole concept of community policing, or they do not understand how to implement it.

When Commissioner Brown came to New York, he said that one mistake he felt he made in Houston was not starting with his training process, and trying to retrain his whole police department. One thing you need is to commit some resources to training, if you are moving from the reactive mode of policing to the pro-active mode of community policing. You also need to make sure that there are resources there, and you need to make a commitment up front to training because part of what you have to do is change the culture of your police department; change the culture and mentality of the persons that you have. Now, if you have the opportunity to do some hiring -- some additional hiring -- then you need to look at your selection process. I think this is very crucial. What type of persons and what type of traits are you looking for in your police officers? Now, most of us are tied into these civil service positions, and so the civil service system sets a certain criteria.

Now, if it is possible to look at that and review it, then you need to look at that and review and see how you can get some changes there, because we are finding here in New York that the persons who are selected may not be community-minded. But the selection process is set up to screen out the people you do not want, rather than to screen in the people that you do want as police officers. We find that we do a lot of recruiting. Many of us have special programs for recruiting black officers, but we have to go beyond just the recruitment process and then look at the whole selection process. What is in that process that is turning African-Americans and Latinos away from police work? We are finding that many African-Americans are taking the exam, but they are not getting through the process, so we have to go beyond just looking at the test, but looking at the psychological tests, and looking at the background testing, etc.

As mayors, you need to ensure that there are resources available in order to implement community policing. Community policing is somewhat labor intensive, and so you have to look at how you best allocate the resources that you have. We know that everything is scarce now, but how do you get some of the people off the desk and out into the street? We are finding that many cities are saying that we need more police officers, but maybe what we need to do is take away some of those desk jobs and get more police officers out in the street. We need to look at civilianization. How do we bring more civilians into the police department to handle some of the office, clerical and staff functions of the police department so that we can get officers out on the street? Because in most cities we put a big investment into training our police officers. Therefore, we really need to get them doing the jobs for which they were trained rather than having them compiling statistics, etc., because many people who do not have police backgrounds can do those types of functions.

Then as mayors, you will also need to help to organize your community to support community policing. The community needs to know what its role and responsibility is. I have found, since I came here, that most of the people on my staff had no idea what the community's role is, and there was no plan to educate the community concerning community policing. Last night, we initiated

a citizen's police academy, and this was an idea that we stole from Prince George's County, Maryland. What we are doing now is selecting at least one person from each precinct in our city, and they are going through a sort of a mini police academy, and if this experiment works out, we hope to continue to do this. But this gives community persons an opportunity to see what are the issues, what are the topics that our police officers are trained in. Give them exposure to our use-of-force training. Talk about speed cuffing and the various handcuffing mechanisms that we use. We hope that these citizens will then go out and help us reeducate the community concerning what the role of the police is and what the role of the community is in working with the police in this partnership that we have on community policing. And, then, we hope that they will continue to talk about and support community policing wherever they go in their communities, at churches, etc.

Now, in terms of training, the kind of training that we are doing in the New York Police Department, we started off with orientation training for all police officers. What we tried to do was to have each officer understand what is community policing, and why the department is changing, because there were a lot of misconceptions, a lot of misunderstanding about why we were changing philosophies. Then there was the whole fear with Commissioner Brown being an outsider, and coming from out of town. They said, "Why is he trying to change us? He is not a New Yorker; does he know what he's doing?" And so we had to convince people that they would still be doing regular police work, but you are now going to be doing better police work as a result of cultivating a relationship with the community.

Now, we are into what we call skills training. We have identified a number of skills that our police officers have to have as community police officers that they may not have been trained in prior to the implementation of community policing. We have identified areas such as problem solving, communication, interpersonal skills, cultural awareness training, community organization, resource utilization, and then also we have looked at the fact that we are getting rid of some of our specialty units, and so, our officers are having to become more generalists. So we are looking at what are some of those specialties that we had that we will now have to train our officers in, such as crime prevention. We had special officers that were trained in crime prevention, and that was all they did. Now we are trying to give our officers a generalist perspective on crime prevention. Take for example, latent prints -- how to lift fingerprints. That may sound simple, but that is not what our officers have been trained in. There was an officer in each precinct who was responsible for lifting prints, now we have to do that as specialty training.

But at the same time that we change our training at the Academy, I realize that there are a lot of other informal training mechanisms in the police department that have to be changed, such as the disciplinary system and the evaluation system. And then you have to work with your union. If you are from a city that has unions, I am sure you understand how the police union usually is very strong, because they put a lot of money into the coffers of various

politicians. So you have to work with the union in terms of trying to get them on board with community policing, because they are your formal leaders in the police department. Then you have to identify who are your informal leaders, and try to get them on board.

But there is a lot that has to be done in terms of planning. I think a lot of people jump out and say, "We are going to implement community policing" without thinking it through. One thing that we had the opportunity to do was that our mayor allowed our police commissioner to develop a plan of how he would implement community policing, so there was a bridge in there rather than just saying, "Today, we are going to implement community policing." I think sometimes mayors, because of a short tenure, have a desire to get something done and see results overnight. Community policing is not anything that can be implemented overnight. It is what we sometimes say is an evolution rather than a revolution. Thank you.

Lewis: Thank you very much, Dr. Scott. And now we have before us, Mr. Hezekiah Brown, Director of Labor Management Programs, Cornell University.

Prof. Hezekiah Brown: Thank you very much, Dr. Lewis. It is indeed an honor and pleasure to be here this morning to address this body. I am currently serving as the Director of Labor Management Programs at Cornell University. I am a labor mediator, arbitrator; I resolve conflicts, and I was the person who was appointed by the Democratic National Convention last year to solve all disputes during the Democratic National Convention; so, therefore, you don't know me, because we got most things resolved. You only get publicity when you do not do what you are supposed to do.

I am going to talk to you a little bit about conflict resolution, which I am an expert in, and some folks are reluctant to say that, because they do not have self-confidence in terms of what they do and how they do it, but I am an expert in resolving conflict.

I think that what we are doing in my business is something that is so important because we are trying to get folks to focus on the humanistic approach to problem solving. You know, every day we read the newspapers; every day we watch television; every day we hear on the radio about some form of violence, and then we go back and talk about how bad it is. "Oh yes, that is right. I wish we could do something about it." But, yet and still, very seldom do we think about what we could do. Very seldom do we think about what this country should be doing. Very seldom do you think about what the mayor should be doing about conflict because it affects every single city this year. No one is excluded.

You and your administrators spend sometimes in excess of 80 percent of the day managing conflict. How do we solve it? We have got some ways to solve it. If they do something wrong, we will put them in jail. If they do something wrong in school, we will suspend them. If they come to school with weapons we will get metal detectors. If they do something wrong in school, we will suspend

them. All these things are culturally in opposition to what should be done, particularly with us and with young people. I think that the real humanistic part is forgotten.

When you suspend that kid from school, they come back, and they come back with the same thing. When you put in metal detectors a kid laughs because he thinks that we are dumb, because they are not going to walk through a metal detector with the weapon; they are going to go around and put it in a window and give it to their cohorts in the schools. When you incarcerate a kid and warehouse a kid, as we are doing all over this country, and not talking about what they are doing and what they should be doing to improve themselves when they get out, they get out more hardened than they were when they went in, because they go into prison and learn how to be prisoners -- they learn what they did wrong, and they want to go back and do it.

What we encourage you to do, and we will continue to encourage you to do, is to find ways and means to start to teach folks about how to resolve conflict. What do you do in a school when someone called another kid a name, because most fights in the schools, do you know what they are all about? Someone calling someone a name, someone talking about someone's mother, or someone doing something simple, and kids ridicule each other. They ridicule each other just about some simple things, and believe me, it does not leave there, because the same thing happens on the job. Someone calls you a name, or someone talks about your mother or father, and you are still ready to fight. We teach people to resort to violence as opposed to out thinking the other side.

What we have to do is start somewhere along the line teaching folks that there is a way, and there is an alternative to violence. But we cannot wait until you go to jail to do it. We have to do some preventative part of it. What I am saying is most of the folks that I know are not willing to invest in preventing. They are always willing to invest when a crisis comes. The money is no problem when the crisis comes. If you do not believe it -- everybody talks about L.A. -- it is in the news. Think about how much money the city of Los Angeles is spending now. Think about how much money we did not have when the Persian Gulf Crisis came, and we spent \$1 billion a day in the Persian Gulf that we did not have, supposedly. But think about the preventive stuff.

I give you those high numbers because I am going to try to get right back to what I am saying, that the prison system itself is a failure. It does not work! And we spend anywhere from \$90-100,000 to build one jail cell to house an inmate, and it costs in the State of New York from \$35,000 to \$50,000 just to maintain that inmate while there. It does nothing to help improve our society and our system. It provides jobs, but it does not help the individual.

So what we are saying is that we teach folks how to resolve conflict, how to exchange position with the other side. You know, we talk about how you mold and start thinking in a sense about how to do something different than fight the other person. In fact, we went to Riker's Island [jail] with some inmates a little while ago, and we did a workshop with inmates, and they said to us, "Mr. Brown, had we had some of this training, some of us would not have

been here. Not all, but some of us would not have been here." So I say that to say to you, in a sense, there has to be a different way that we start to address problems.

I want to elicit the support of you here because it is no secret -- to elicit support of you here in this way -- that I believe conflict resolution should be part of the school curriculum on a nationwide basis.

I do not believe that it should be mixed with anything else; it shouldn't be mixed with English, science, social studies or health. I've talked to a lot of educators about this, and they said, "Well, that is a good idea, but you know what we ought to mix it with this, and we ought to mix it with that." This stuff is so serious -- our young folks are killing each other -- on a day-to-day basis with no [scales] they are killing each other, and we are still talking about, "Yeah, well, we should call it another name." I am saying, call it what it is and address it. I am saying that young folks, two and three times a week, from the time they enter school, should be going to classes, sitting, and talking about how you get along with the kids that are in the community. How do you communicate with your parents? How do you communicate with your colleagues? When you teach conflict resolution, you give folks life-sustaining skills. It is like swimming or riding a bike. What you learn in conflict resolution, you never forget.

I am going to stop. There are so many things I want to say, but I know the time is running out. Thank you for this short time, and for listening.

Lewis: Thank you very much, Mr. Brown. Now we will hear from Sylvester Murray, Director of Public Management Programs at Cleveland State University.

Prof. Sylvester Murray: Thank you, and let me say good morning also. About three years ago another guy wrote an article in Public Administration Review, and his name was Pat [Dommel]. He was talking about cities. He was talking about government. He was talking about institutions, and he was talking about what we are talking about today. How do institutions work, and how should leaders in public institutions lead? Here was his major premise and one of the reasons why we were not accomplishing things that we could. He said that democratic societies have always been uncomfortable with public officials exercising discretion. We think that discretion invites abuse. We think that if we vest you with an office and give you what we call too much power, that you will start acting as an individual rather than acting as a robot, by law. I am willing to agree, and as Mr. Brown just indicated, that as a black mayor in this town, or any public official in this country, you probably spend 70 percent of your time dealing with disputes and just 30 percent of your time with actual projects, but we do not give you the discretion to deal with them. It is our opinion that a mayor or a public official could do a more efficient job on both new initiatives and settling disputes, if they had more discretion in the sense that citizens put more confidence in their ability to make decisions.

Now the problem of public discretion can be thought of as judgment. What we are actually saying is that it is not that we do not want to give you discretion, but we are uncertain of how you are going to use it. We do not know what judgment factors you are going to use. Because we cannot anticipate what your reaction is going to be, then the position is we do not want to give you the right to do it. The public wants their mayors to propose new programs. They want their mayors to keep the peace. They want public officials to appreciate policing in the community, but we do not want to give them that discretion.

But do you know where we are willing to give the discretion? We are willing to give that discretion to that agency that we supervise, that, probably, we should not be giving it to, and that is the police department. We are always willing as leaders and public, perhaps, to give that discretion to police departments so that they do not have to be bound. We can always come back with an excuse, "Well, it was on the street. We were not there. We did not know what was happening." It is the wrong attitude to take. If there is to be no discretion in the mayor's office, there should be no discretion in the police officer's office on the beat. The same principles should hold. What then could a mayor do to go about solving disputes, or how should a public official approach the issue? Let me give an example, and then I will end by giving some suggestions.

As a city manager of Cincinnati at the time, we had big problems with the police in the community. The police were shooting indiscriminately because they had a weapon. The police were using the big batons to hit people in the head. People were complaining. The reaction -- not the normal reaction, but one of the reactions give was, "Let's set up a civilian review board. Let's have somebody else come in and look at what the police are doing, and then they can give us some recommendations for action." Our response was, no. The police are supposed to be responsible to us. Let's see what they are doing, and then let's chastise them if they are doing it incorrectly. So, rather than set up a civilian review board in Cincinnati, we set up a -- you called it a civilian board -- but we just hired two more people who operated out of the mayor's office the city manager's office. I know that cities like New York are much too large, so that you probably cannot do this here, but most of the cities in this country are small enough to do this. If ever there was a case where a police officer used a weapon, at the same time that the dispatcher the police chief or the police captain or the internal review board, call the mayor's office. Somebody from the mayor's office is going to come out to the site at the same time the internal investigation is going to come out at the site, and we are both going to look at it at the same time. And we are going to go through the process together. It worked. Where we used to give the police discretion of policing yourself, and you come up and tell us whether or not you did wrong, and then we will make a decision; let us come out there and look. At the same time you are looking, we are looking, and we decide together whether you did wrong.

Some cities are so large that you cannot do that because there are police shootings five or six times a day. So let me suggest some other ways that you

can approach it. Three kinds of philosophies. Appreciate what it means to be in government. Appreciate, number one, that in government, process is more important than product, so that when you, as a public official, attempt to decide how you are going to act in the community, or especially with your police, appreciate that the process in government is much more important than product. If you do not believe me, you ask yourself why we are going through two trials in Los Angeles? We saw what happened. We know what happened. There is absolutely no question what the product was out there in Los Angeles. But that is unimportant. In government, it is the process. Did the officers beat him up in the right process? If they did, they are not guilty. The fact that he is beat up has no meaning. We give police officers 357 magnums to kill folks. It is not a problem that the man is dead. That is not the issue. The issue is did you use the right process to kill him?

Government officials have to appreciate that the process is more important than the product. You also must accept the fact in government that assessing blame is almost always equally important as suggesting solutions. People said, "Now, that does not make sense." Let me tell you, that makes a lot of sense. In government, before you can move forward, you have got to know who did what wrong. In business that is not always the case. In business a lot of people can do things wrong. You do not have to put anybody in jail. You come up with new procedures and new laws. But in government, the citizens are going to insist that whoever did wrong by name be put out of office, be given some days off, or something happens. So appreciate the fact that whenever you get into conflict situations, find out who did wrong and deal with them, and then you can move forward.

Finally, personal integrity describes a condition where individuals can hold multiple rounds of judgment and tension while keeping some coherence in their actions and lives. Let me say this again: for the public official, the most important thing you can do after you have appreciated the situation that you are in is to have something called personal integrity. Personal integrity is not who you are sleeping with. Personal integrity is that you have a lot of different issues -- tensions that you're dealing with -- but you can maintain a sense of judgment and you can identify that that judgment can be one item in problem #A, another in problem #B, and another sense of judgment in problem #C. In all cases, your personal integrity is how well I am controlling my emotions, separating the issues, and dealing with them individually. Personal integrity can give you discretion because you are going to make a decision based on three things.

Number one, always there is going to be some sense of legal constitutionality. You are going to say it is the legal thing to do. Accept that as one of the reasons. Secondly, if you are an elected official, you cannot get away from it. You are going to think in some way of the political expediency. So admit that. But analyze it for what it is worth, and then deal with it that way. Then, third, appreciate that there has to be some personal integrity.

To summarize, whether it is legal you can ask the question, whether it is politically right, you ask the question, but most importantly, is this what I want to do? Is this me, as the mayor of this city? Put all of those things together and give them equal weight for making that decision. Thank you.

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