

federal installations and equal housing opportunity



A Report of
the U.S. Commission on Civil Rights
March 1970

U.S. COMMISSION ON CIVIL RIGHTS

The U.S. Commission on Civil Rights is a temporary, independent, bipartisan agency established by Congress in 1957 and directed to:

Investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, or national origin, or by reason of fraudulent practices;

Study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution;

Appraise Federal laws and policies with respect to equal protection of the laws;

Serve as a national clearinghouse for information in respect to denials of equal protection of the laws; and

Submit reports, findings, and recommendations to the President and the Congress.

Rev. Theodore M. Hesburgh, C.S.C., *Chairman*

Stephen Horn, *Vice Chairman*

Frankie M. Freeman

Hector P. Garcia, M.D.*

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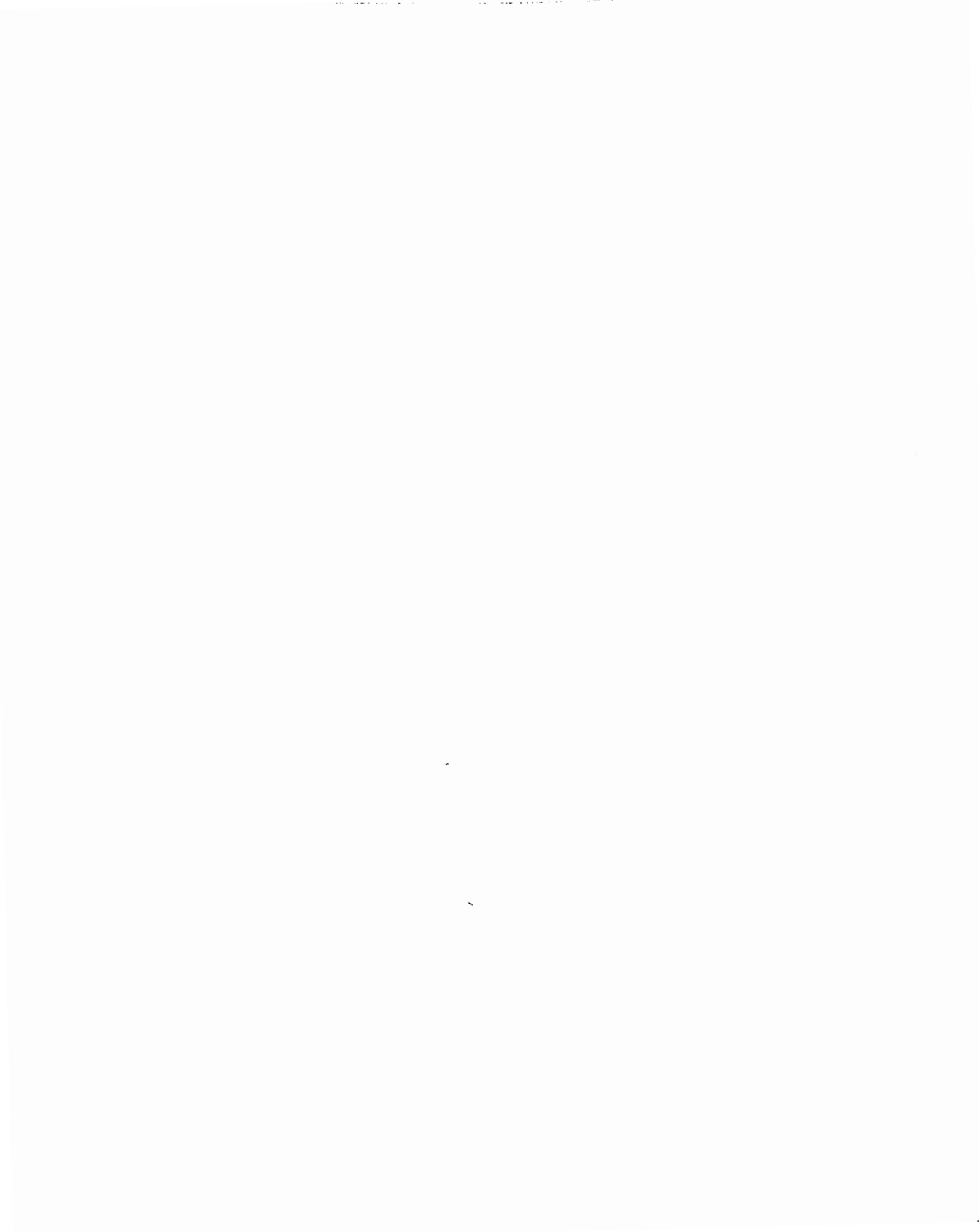
Robert S. Rankin

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LETTER OF TRANSMITTAL

The U.S. Commission on Civil Rights
Washington, D.C., March 1970

The President
The President of the Senate
The Speaker of the House of Representatives
Sirs:

The U.S. Commission on Civil Rights presents to you this report pursuant to Public Law 85-315, as amended. This report, the first of a series on equal opportunity in housing, reflects the Commission's concern with the lack of housing for lower-income and minority groups near the sites of rapidly expanding suburban Federal installations.

So long as this circumstance exists, many Federal employees work under distinct disadvantage. Available jobs at such sites are often at the entry level. Persons who qualify for these jobs frequently have neither access to convenient public transportation nor money to drive a car and, thus, suffer acutely from lack of nearby housing.

Title VIII of the Civil Rights Act of 1968 directs Federal agencies to administer programs in a manner conducive to further the purposes of fair housing. Unless the Federal Government uncompromisingly allies itself with that directive, grave financial hardship will be imposed on a large number of Federal employees and their families. It is our hope that the affirmative interpretation of that directive would include responsibility for choosing sites in communities that provide adequate, realistically priced housing and demonstrate that they are in fact open to all.

The Federal Government is in a felicitous position to create vital centers of employment in what have been isolated parts of the country. This circumstance can be made into an extraordinary opportunity to weld together urban and suburban areas of the Nation for the betterment of all its citizens.

In reappraising and readjusting the choice of Federal installation sites, more than a law will have been upheld: an historic purpose will have been served. For such action will be eloquent means of considering the well being and furthering the racial and economic cohesiveness of our total society. It will mark an epochal opening to this decade.

We, therefore, urge your consideration of the facts presented and the recommendations made for corrective action.

Respectfully yours,

Rev. Theodore M. Hesburgh, C.S.C., *Chairman*
Stephen Horn, *Vice Chairman*
Frankie M. Freeman
Hector P. Garcia, M.D.*
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PREFACE

Housing has been a major and continuing concern to the U.S. Commission on Civil Rights since its establishment in 1957. In its first report, issued in 1959, the Commission concluded that housing is "the one commodity in the American market that is not freely available on equal terms to everyone who can afford to pay." In its 1961 report, the Commission found that the situation had shown little improvement. In both reports, the

Commission concluded that the problem of unequal housing opportunity was compounded by the critical nationwide shortage of housing for low- and moderate-income families.

Since 1961, the Federal Government has taken several important actions to confront the problems of housing discrimination revealed in the Commission's early reports. For example:

- In 1962, President John F. Kennedy signed Executive Order 11063 which forbids discrimination in the sale or rental of housing receiving Federal assistance.

- Two years later, Title VI of the Civil Rights Act of 1964 prohibited discrimination in federally assisted programs, including such housing programs as Public Housing and Urban Renewal.

- In April 1968, Congress enacted the Civil Rights Act of 1968 which declares that the policy of the Nation is "to provide, within constitutional limitations, for fair housing throughout the United States."

- In June of the same year the Supreme Court of the United States, in *Jones v. Mayer and Co.*, declared, on the basis of a civil rights law passed in 1866, that practices of racial discrimination in the housing market are illegal, whether the discrimination is by private or public action, and whatever the kind of housing involved.

In the years since 1961 the Federal Government also has begun to broaden its programs providing decent housing for families at the lower end of the income scale. Before 1961, public housing was the only Federal program aimed at meeting the housing needs of lower-income families. In the next few years, two new programs were added—FHA 221(d) (3) and rent supplements. In August 1968, Congress passed the Housing and Urban Development Act of 1968, unquestionably the most sweeping Federal housing measure since the Housing Acts of 1937 and 1949. At last recognizing the dimensions of the Nation's critical shortage of adequate housing for low and moderate-income households, this act greatly expanded certain old programs, modified others, and, most important, created several entirely new approaches for dealing with a major element of the housing problem, the gap between the cost of decent housing and the paying ability of lower-income families. In this act, Congress called for the production of 26 million housing units over the next 10 years, of which six million are to be for families of low- and moderate-income.

Since publication of its last major report on housing in 1961, the Commission has continued to assess the extent of equal opportunity in the

Nation's housing and to evaluate the effectiveness of Federal action in providing it. A Commission public hearing in 1966, for example, explored housing conditions in the low-income ghettos of Cleveland, Ohio, and the role of federally assisted programs in perpetuating these conditions. One year later the Commission investigated, also through a public hearing, the housing situation in San Francisco and some of its adjoining communities. In its study, *Racial Isolation in the Public Schools*, published in 1967, the Commission looked at Federal housing policies in terms of their impact on school segregation. Housing has also been the subject of numerous open meetings and reports by the Commission's State Advisory Committees, special investigations by staff and consultants, and testimony presented by the Commission before committees of the Congress considering both civil rights and housing legislation.

The overwhelming conclusion of these hearings and studies is that important steps have been taken but much remains to be accomplished to assure equal opportunity in housing for every American. The President, the Congress, and the Supreme Court all have declared that equal housing opportunity is the policy of this Nation. Yet there still remains a large gap between policy and reality.

The report which follows is the first of a series which will explore the current status of equal opportunity in housing in terms of the impact of various aspects of Federal policy. Subsequent reports will deal with such matters as the Federal effort to assure nondiscrimination in mortgage finance and the impact of Federal lower-income housing programs.

This first report deals with the specific issue of Federal site selection policy in the location of Federal installations. In its study, the Commission has attempted to determine the current and potential impact of Federal site selection policy on opening housing opportunities throughout metropolitan areas for lower-income and minority group families. The Commission also has attempted to identify the current status of Federal policy and to explore those areas where it needs strengthening and broadening.

The Commission recognizes that this is a subject of growing concern and controversy as Federal agencies join the trend of private industry to locate or relocate outside central cities. In issuing this report the Commission hopes to shed light on the issues involved and contribute to their successful resolution.



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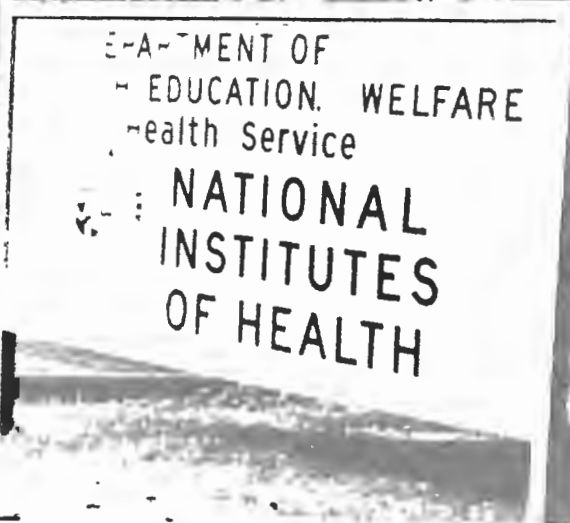
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ACKNOWLEDGEMENTS

The Commission acknowledges the special services of Frances B. Lumbard, Social Science Analyst, Office of Civil Rights Program and Policy, and the following staff members who assisted in the preparation of this report: Elfriede F. Hoerber,* Jeanne Marie Baranek,* Klaire V. Adkins, Lucille L. Boston, Claudette C. Brown, Bessie L. Heggs, and Gladys McEaddy.* The work was done under the supervision of Martin E. Sloane, Assistant Staff Director, Office of Civil Rights Program and Policy.

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CHAPTER I

INTRODUCTION

The Federal Government is committed to a comprehensive policy of equal employment opportunity;¹ it also has pledged to the American people the goal of "a decent home and a suitable living environment for every American family,"² and has declared fair housing to be a national objective.³

These twin objectives of equal opportunity in

¹ Exec. Order No. 11246, 3 C.F.R. 1964-1965 Comp. 339, as amended by Exec. Order No. 11375, 3 C.F.R. Ch. IV at 406; Exec. Order No. 11478, 34 Fed. Reg. 12985 (1969); Civil Rights Act of 1964, Title VII, 42 U.S.C. § 2000e (1964).

²Housing Act of 1949, Sec. 2, 42 U.S.C. § 1441 (1964).

³Civil Rights Act of 1968, Title VIII, 42 U.S.C. § 3601 (Supp. IV, 1965-1968).

jobs and housing cannot be achieved if they are dealt with narrowly or in isolation. The relation between the two is self-evident. In order to obtain a home of one's choice, it is necessary to have the economic ability to purchase or rent it which, in turn, requires a job paying a good salary. By the same token, an important ingredient in holding a job is the ability to live in convenience to places of employment. Jobs and housing interact upon one another, combining either to help or hinder a family's efforts to improve its way of life.

Over past decades, forces have been at work which reinforce barriers to employment and housing opportunity for disadvantaged people, especially those who are minority group members. Centers of employment—particularly in manufacturing industries—increasingly are locating in suburban and outlying parts of metropolitan areas, while the poor and the unskilled continue to reside in central cities, physically separated from many jobs they could fill. Transportation to suburban employment centers is inadequate for central city residents, and housing in close proximity largely is unavailable to lower-income families. For minority group members, a disproportionate number of whom are economically disadvantaged, the problem is compounded by the continuing fact of racial discrimination and the legacy of past discrimination, which restrict them—poor and affluent alike—from acquiring housing outside racial ghettos of core cities.

Industry decentralization also is intensifying the problems of our central cities. The cities are not sharing equitably in the economic benefits that flow from industrial growth in metropolitan areas and are finding it increasingly difficult to obtain the financial means necessary to provide basic municipal services.

The decentralization trend is affecting the Federal Government as well as private employers. More and more Federal installations are locating in areas outside central cities, and the problems facing lower-income and minority group Federal employees are as severe as for those working in the private sector.

If equal employment opportunity and equal housing opportunity are to be achieved, the Commission is convinced that the full resources of the Federal Government must be brought to bear on the effort. Yet, in one area where Federal leverage could be persuasively effective—selection of sites for Federal installations responsibility has not

been assumed, or even fully recognized.

Until recently, Federal policy in choosing locations for its operations failed utterly to recognize problems that suburban locations cause lower-income and minority group employees. Decisions on locating, relocating, or expanding Federal facilities in suburban parts of metropolitan areas have been made on the basis of criteria totally ignoring needs of lower-income employees. Installations have been situated in communities which lack lower-cost housing and are largely inaccessible from the central city. Sites have been selected in areas where minority group members, regardless of income, are not welcome. In no case has the Federal Government insisted that communities must be open to all if they are to benefit economically from Federal installations.

This failure to assume responsibility, or even fully to recognize it, necessarily hinders achievement of equal opportunity goals. The goal of equal employment opportunity is frustrated if lower-income employees and minority group employees find it difficult or impossible to commute long distances to suburban Federal installations, or to live in proximity to them. Many potential Federal employees, similarly, are discouraged from even trying to obtain jobs there. And the goal of equal housing opportunity necessarily is frustrated when the Federal Government fails to use the leverage of the economic benefits afforded by its installations to promote open communities.

This report concerns current and potential impact of site selection policies for Federal installations on achieving these goals. The Commission has examined the trend toward decentralization of industry generally, and the problems created by it for lower-income and minority group employees and potential employees. The Commission also has traced the similar trend in Federal installations and examined in detail the implications for minority group employees caused by relocation of the National Bureau of Standards from the District of Columbia to Montgomery County, Maryland, and the Manned Spacecraft Center from Langley, Virginia to Houston, Texas. Finally, the report is concerned with the emergence and development of Federal site selection policy by the General Services Administration—the agency responsible for acquiring facilities for most Federal departments and agencies—and the necessity for this policy to be strengthened and made uniform throughout the Federal establishment.



CHAPTER II

THE JOBS MOVE OUT

Our cities, long centers of industry and commerce, as well as residence, are less so today. Jobs are moving steadily to suburban and outlying parts of metropolitan areas—places which, in former years, were either rural in character or residential enclaves for the more affluent.

According to a recent study of the U.S. Department of Labor, more than half the industrial and commercial buildings—representing many new jobs—constructed in metropolitan areas between 1960-67 were built outside central cities.⁴ For trade establishments, 52 percent went up in suburban and outlying parts of metropolitan areas,⁵ while more than three of every five industrial establishments were constructed outside central cities.⁶

Further, in each of the Nation's 24 metropolitan areas with populations of one million or more, the central city has experienced a decrease in the proportion of employment in manufacturing, trade, and service industries.⁷ Most cities experienced declines not simply of proportion, but also of absolute numbers. For example, Chicago, during the decade 1954-63, lost more than 150,000 jobs, while other parts of its metropolitan area gained more than 200,000.⁸ In Detroit, central city jobs declined by more than 140,000 during the same period, while employment in suburban and outlying parts of the metropolitan area increased by almost 50,000.⁹ In the 24 largest metropolitan

⁴U.S. Bureau of Labor Statistics, Department of Labor, BLS Report No. 353, "Changes in Urban America," at 5 (1969).

⁵Ibid.

⁶Ibid.

⁷Kanwit and Eckart, *Supplement to Paper on Transportation Implications of Employment Trends in Central Cities and Suburbs*, Highway Research Record 187, Appendix Table 2.

⁸Ibid.

⁹Ibid.

areas, central cities lost more than 500,000 jobs in the 1954-63 decade, while suburban and outlying parts of these metropolitan areas gained three times that number.¹⁰ Thus in the face of economic expansion in metropolitan areas, central cities have suffered an economic decline.

Migration from the cities has been led by the manufacturing industry, which offers many of the employment opportunities for the relatively untrained. During the 1954-63 decade, our 24 largest cities sustained an absolute loss of 605,000 manufacturing jobs, while 442,000 were created in suburban parts of the metropolitan areas in which these cities are located.¹¹

At the same time, the poor and unskilled, of whom a disproportionate number are members of minority groups, are unable to obtain suburban housing and, therefore, continue to reside in the central city. As one Federal official has pointed out, movement of industry from central cities to suburban parts of metropolitan areas, by physically separating the place of residence of unemployed and underemployed workers from prospective places of work, is making it more difficult for them even to learn of available jobs.¹²

Jobs for which beginners or relatively unskilled people could qualify—those in the manufacturing and retail trades—are the ones for which the trend toward suburban locations is strongest. In other industries, however, such as finance, real estate, and insurance, the suburban tendency is not as strong. As of 1967, more than four of every five jobs in those industries still were found in central cities.¹³ These, however, are positions for which those who are relatively unskilled often cannot qualify. As the Commission was told at its 1967 Hearing in San Francisco, “. . . since 1950, we are more of a financial center, it makes it very difficult to find . . . the beginners’ jobs.”¹⁴

Of equal importance is that the increasing dis-

tance between jobs and those who need them is intensifying racial and economic separation in metropolitan areas. The poor and nonwhite have been traditionally excluded from the suburbs. So long as potential employment was available and accessible, however, there was hope that at least one of the barriers to free housing choice — economics — could be overcome. The decline of jobs in central cities and inaccessibility to growing suburban employment opportunities are reinforcing racial and economic isolation, at the same time further lessening the hope of real housing choice.

The trend toward suburbanization of industry is not new, nor are the factors responsible for it. Lower land prices, technological and transportation changes, and revised production and facility needs, are among the reasons industry has sought to locate or expand in outlying areas. In addition, large suburban population growth has attracted many retail and wholesale operations away from their traditional central city concentration to sites where, increasingly, the customers are.

TRANSPORTATION

Since World War II, massive highway construction and booming automobile production have revolutionized the Nation. As of 1967, nearly four of every five American households owned one or more automobiles,¹⁵ with nearly 85 percent of all commuters relying on them to take them to work.¹⁶ However, many lower-income families do not own cars, and for those who do, a large proportion of the automobiles are likely to be old and in poor repair. For example, 57 percent of families with incomes of less than \$5,000 a year owned a car in 1967. But only one of every four owned a car less than 5 years old and fewer than one in 10 owned one less than 2 years old.¹⁷ For families with incomes below the poverty level of \$3,000 a year, the situation was worse still. Little more than two of every five such families owned an automobile, and only 15 percent owned cars 5 years old or less.¹⁸ A survey of the Watts area in Los Angeles conducted by the

¹⁰*Ibid.*

¹¹*Id.*, Appendix Table 6.

¹²Address by Louis F. Buckley, Regional Administrator of Bureau of Employment Security, U.S. Department of Labor, before the Fordham University Alumni Institute, Nov. 2, 1966, entered into the Record of the *Hearings on the Federal Role in Urban Affairs Before the Subcommittee on Executive Reorganization of the Senate Committee on Government Operations*, 89th Cong. 2nd Sess., pt. 8, at 1775 (1966).

¹³U.S. Department of Labor, *supra* note 4, at 6.

¹⁴Testimony of Orville Luster, Executive Director of Youth for Service, San Francisco Hearing before the U.S. Commission on Civil Rights, at 275 (1967).

¹⁵Bureau of the Census, Consumer Buying Indicators, Special Report on Household Ownership and Purchases of Automobiles and Selected Household Durables, 1960 to 1967, Series P-65 No. 18, Table 1 (1967).

¹⁶Bureau of the Census, 1963 Census of Transportation, Table A at 62.

¹⁷Bureau of the Census, *supra* Note 15, Table 2.

¹⁸*Ibid.*

Department of Housing and Urban Development found that of the 530 men surveyed, 246 had access to cars. Fully a fifth of the available vehicles were considered unreliable for freeway use, and only 153 were insured.¹⁹

For the poor, public transportation is a necessity if they are to reach suburban job locations. Yet for many, it is difficult to obtain, prohibitively expensive, or both. As one study pointed out, "Most suburban rail and bus lines are oriented to bringing white collar suburbanites into the central business districts in the morning and returning them home at night."²⁰ To reorient public transportation in favor of the "reverse commuter" is uneconomical. Suburban job locations are too dispersed—too few passengers are bound for any one suburban destination—to warrant, in economic terms, running separate transportation lines.²¹

In those cases where transportation to suburban job centers is available, the trip usually is long and the cost high. For example, a 1968 study found the trip by public transportation from Baltimore to suburban jobs ranged from a 40-minute ride each way at approximately \$4 per week to an hour's ride each way at a cost of \$15 a week.²² Commuting from downtown Washington, D.C. to jobs in adjacent Montgomery County, in 1968, took between 43 and 72 minutes, depending upon the destination and assuming minimal waiting time, with the one-way cost ranging from 50 to 80 cents.²³ A suburban resident using the same route in the opposite direction spent 12 to 27 minutes less in transit. Persons living across town in Southeast Washington would need 2 hours to reach the near edge of Montgomery County [at Chevy Chase]

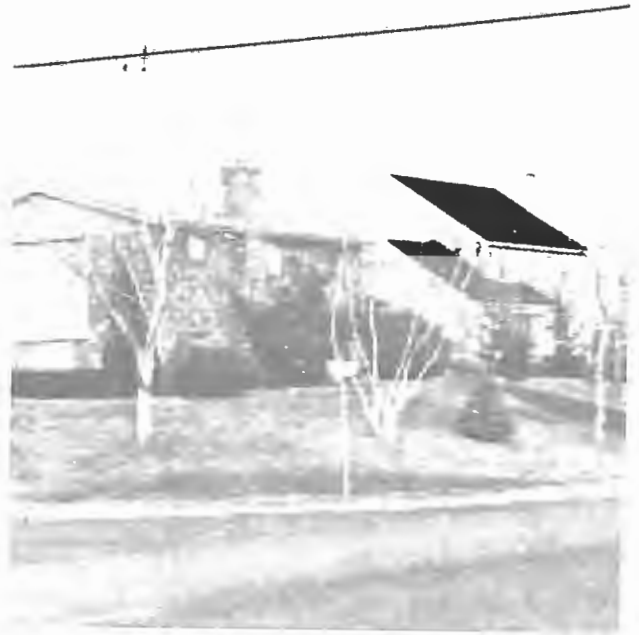
¹⁹U.S. Department of Housing and Urban Development, Progress Report No. 6, South Central and East Los Angeles Transportation Employment Project, at 36 (1967).

²⁰Webber and Angel, *The Social Context for Transport Policy*, presented before the House Committee on Science and Astronautics at its Tenth Meeting with the Panel on Science and Technology, 91st Cong., 1st Sess., at 12 (Comm. Print 1969).

²¹*Ibid.*

²²National Committee Against Discrimination in Housing, *The Impact of Housing Patterns on Job Opportunities*, at 28 (1968).

²³Bain; *Improving Transportation in the Washington Metropolitan Area—Number 1*, "Reverse-Flow Express Bus Service; A Proposal for Improved Transit Service Between Inner-City Residential Areas of Washington, D.C. and Suburban Employment Centers in Montgomery County, Maryland," Table 3 (Washington Center for Metropolitan Studies 1968).



using existing public transportation.²⁴ As one recent study concluded: ". . . except for serving those who travel to central business districts, our transit systems scarcely work at all."²⁵

These problems are being recognized and some efforts are being made to overcome them. A variety of proposals have been devised in an effort to bridge the growing physical distance between the central city poor and suburban jobs. These include freelance jitneys, computer-dispatched buses with flexible routes, and low-cost car rental services.²⁶ None yet has been tested on a sufficient scale to determine its effectiveness.

HOUSING

The surest access to suburban job centers is through provision of housing at or near these locations at prices lower-income employees can afford. In fact, most new housing in metropolitan areas is built in the suburbs. For example, nearly

²⁴*Id.*, Figure 6.

²⁵Webber and Angel, *supra* note 20, at 9.

²⁶In the Washington, D.C. area, special D.C. Transit buses are transporting Anacostia and Cardozo residents to employment areas in Prince Georges County. The one-way trip ranges from 34 to 44 minutes, at a cost of 25 cents. *The Sunday Star*, Aug. 24, 1969 at B1.



three-quarters of all new single-family housing built in metropolitan areas during the housing boom of the 1950's was suburban.²⁷ The median price of housing, however, currently is \$24,500 and is expected to rise to \$34,000 by 1973.²⁸ Such housing is far out of reach for the unemployed or underemployed. FHA data show that only 11 percent of the families buying existing FHA-insured houses in 1965 earned less than \$6,000 a year.²⁹ Thus for lower-income families generally, housing is difficult to acquire. For Negroes, whose median income is less than two-thirds that of white families living in metropolitan areas,³⁰ it is harder still.

A variety of Federal programs has been established to enable lower-income families to acquire

decent housing. Until recently, however, most of them carried provisions which, in effect gave local jurisdictions a power of veto.³¹ Little housing under these programs has been built in suburban areas. Further, a variety of restrictive policies and practices of suburban governments, such as large-lot zoning, minimum house size requirements, and arbitrary building codes, serve to bar lower-income housing and exclude all but the relatively affluent.³² For Negroes and other minority group members, the long history and persistence of racial discrimination makes them unable or reluctant to acquire housing outside areas of existing minority group concentrations in the central city.

²⁷Beyer, *Housing and Society* 371 (1966).

²⁸*House and Home Magazine*, September 1968, at 32.

²⁹The President's Committee on Urban Housing, *A Decent Home* 97 (1968).

³⁰Bureau of the Census, *Trends in Social and Economic Conditions in Metropolitan Areas* 37 (1969).

³¹For example, until passage of the Housing and Urban Development Act of 1969, the three principal lower-income housing programs—Public Housing, Rent Supplements, and FHA 221 (d)(3)—each required a "workable program" as a condition to their operation in any community. Thus a community could prevent operation of these programs merely by failing to adopt a "workable program." The 1969 housing law has eliminated this requirement from the Public Housing and FHA 221 (d)(3) programs. The Rent Supplement program still carries

this requirement, however, by virtue of appropriations legislation. It is noteworthy that the new home ownership and rental housing programs authorized in the Housing and Urban Development Act of 1968 do not carry these suburban veto provisions. For a discussion of the various impediments to the provision of lower - income housing in suburban areas, see Testimony of Rev. Theodore M. Hesburgh, C.S.C., Chairman of the U.S. Commission on Civil Rights, *Hearings on National Housing Goals Before the Sub - Committee on Housing of the House Committee on Banking and Currency*, 91st Cong., 1st Sess., at 404 (1969). See also Recommendations 5-8 in this Commission's 1967 Report, *Racial Isolation in the Public Schools*, 211-12 (1967).

³²National Commission on Urban Problems, Report to the Congress and the President of the United States, *Building the American City* 211-17, 254-321 (1968).

CHAPTER III

**FEDERAL
SITE
SELECTION
POLICY
AND
PRACTICE**

The shift of jobs to suburban and outlying parts of metropolitan areas has not been a phenomenon limited to private industry; Federal installations have been moving as well. In the Washington, D.C. area, for example, the General Services Administration (GSA), responsible for acquiring and assigning office space for most Federal departments and agencies, relocated 42 components of 18 agencies, employing more than 17,000 persons, from central city to the suburbs between 1963 and 1968.³³ During the same period, the percentage of Federal employees working at suburban installations for which GSA has responsibility, increased from 29 to 36 percent.³⁴

Agencies not housed by GSA also have moved major facilities from the District of Columbia to surrounding communities. In 1958, for example, the Atomic Energy Commission relocated its headquarters, with 2,000 employees, to Germantown, Maryland, some 27 miles from downtown Washington.³⁵ Also located in Montgomery County are major U.S. Public Health Service research facilities, employing some 15,000 persons.³⁶ The National Bureau of Standards transferred its operations, with more than 2,700 employees, to a site near Gaithersburg, Maryland, during the mid-1960's. Currently the Government Printing Office, a major employer of Negroes in the District of Columbia, is considering a shift of its plant from the District to Prince Georges County, Maryland. The Department of Health, Education, and Welfare also plans to relocate portions of two major units to facilities in the Rockville, Maryland vicinity. According to one recent estimate, 7,000 Federal jobs will be moved out of Washington, D.C. in the next 2 years.³⁷

³³Letter from John W. Chapman, Jr., Deputy Administrator of the General Services Administration, to the U.S. Commission on Civil Rights, July 3, 1969. For a discussion of GSA's jurisdiction in providing office space for Federal agencies, see 15, *infra*.

³⁴*Ibid.* General purpose public buildings, such as Federal office buildings housing a number of Federal agencies, continue to be located predominantly in central cities. Buildings of a special purpose nature, however, which house a single Federal agency, such as the National Bureau of Standards, are the ones reflecting the trend toward suburban location.

³⁵Statement of Harry Traynor, Assistant to the General Manager of the Atomic Energy Commission, before the Montgomery County Council July 1967.

³⁶Statement of Dr. William Stewart, Surgeon General of the Public Health Service of the Department of Health, Education, and Welfare, before the Montgomery County Council, July 1967.

³⁷The Washington Post, August 29, 1969, at A1.

The Nation's Capital is not the only area affected by this trend in the location of Federal installations. The Atomic Energy Commission, for example, is constructing a new accelerator laboratory on a 5,000-acre site in Batavia, Illinois, near Chicago. The Manned Spacecraft Center relocated during the early 1960's from Langley, Virginia to its present 1,600-acre site 25 miles from downtown Houston. In Atlanta, according to GSA, the percentage of Federal employees at agencies for which GSA is responsible increased by 51 percent in the suburbs during the period 1963-68, but only by 27 percent in the city.³⁸

Some factors responsible for this pattern are the same as those that underlie movement of industry generally from cities to suburbs—cheaper land, technological innovations, and space requirements. The Federal Government, however, is not an ordinary employer and decisions on the location, relocation, or expansion of its installations are not determined solely by economic factors. Various other policy considerations, such as national security, safety, and the need to alleviate central city traffic congestion, also have been involved.

Until recently, the housing and commuting hardships facing many lower-income Federal employees—particularly minority group employees—were not among the criteria considered by Federal agencies in determining where to locate, relocate, or expand installations. Yet, by virtue of the Constitution and a series of Presidential directives, the Federal Government is pledged to be an equal opportunity employer and to undertake affirmative action assuring employment opportunities for minority group members.³⁹

Further, special problems of minority group employees in acquiring suburban housing still are not taken into account by Federal agencies in deciding on the location of their facilities. This,

despite the express recognition in the Executive order on Equal Opportunity in Housing of the injustice of racial discrimination and segregation in housing and of the fact that such discrimination and segregation “produce other forms of discrimination and segregation which deprive many Americans of equal opportunity. . . .”⁴⁰

In addition, Federal site selection policy has ignored the need to assure that central cities as well as suburbs share equitably in the economic benefits generated by Federal installations. This failure works in opposition to the overall Federal effort to revitalize our cities and stimulate their social and economic development.

Above all, the Federal Government has failed to use the leverage of the substantial economic benefits afforded to communities by the presence of its installations as a means of helping expand housing opportunities for the poor and the nonwhite, and reverse the trend toward racial and economic separation in metropolitan areas. This contradicts the express directive to all departments and agencies, contained in Title VIII of the 1968 Civil Rights Act, to administer their programs and activities in a manner affirmatively to further the purpose of fair housing.⁴¹

In short, the Federal Government has failed to comprehend the full equal opportunity implications of its site selection policies. As one Federal official has pointed out:

Assurances of merit employment, of merit recognition and of merit advancement and promotion, without regard to race, creed, color, or national origin, lose much of their meaning if an employee finds that he and his family are restricted as to where they can live, as to where their children can go to school, or as to how they can join in community life.⁴²

BENEFITS AFFORDED BY FEDERAL INSTALLATIONS

Location of a major Federal installation, particularly in a relatively undeveloped area, sets in motion dramatic physical, economic, and demographic changes. Federal personnel moving into a community requires housing, schools, stores, banks, and numerous other facilities and services. These, in turn, create substantial new employment and investment opportunities in the

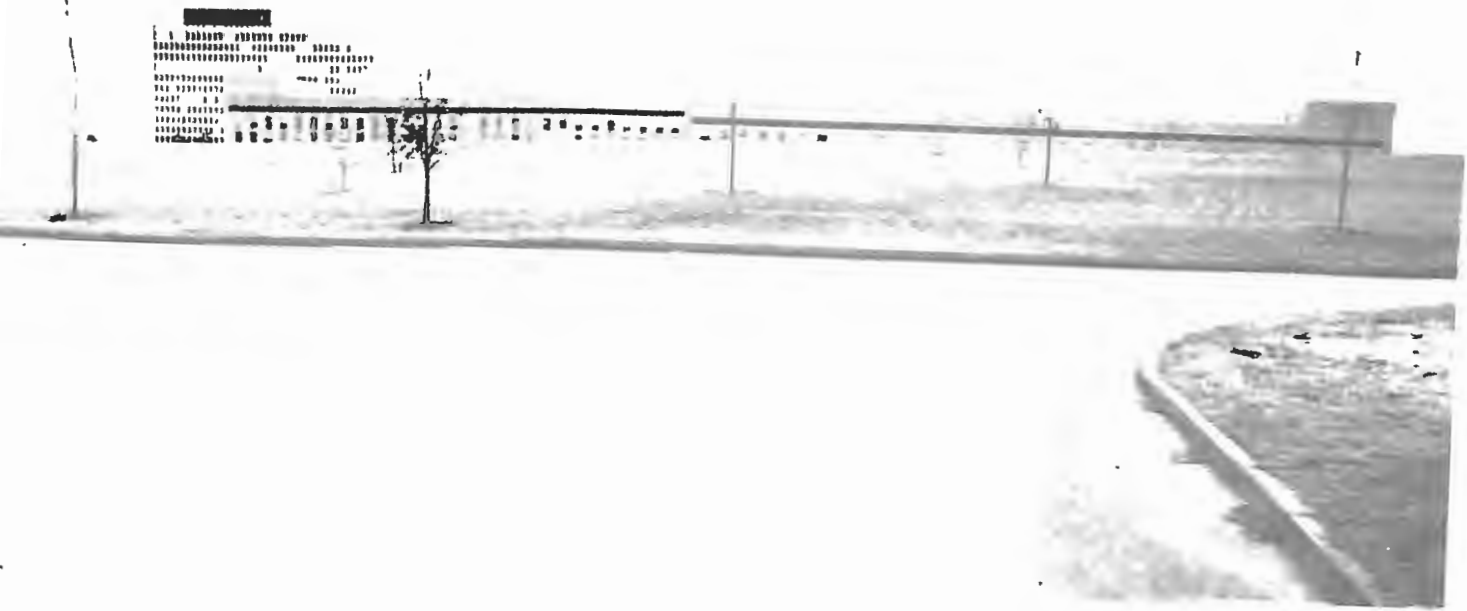
³⁸Letter from John W. Chapman, Jr., *supra* note 33.

³⁹See Exec. Order No. 10925, 3 C.F.R. 1959-1963 Comp. 448, as amended by Exec. Order No. 11114, 3 C.F.R. 1959-1963 Comp. 774, and Exec. Order No. 11162, 3 C.F.R. 1964-1965 Comp. 215, and superseded by Exec. Order No. 11246, 3 C.F.R. 1964 - 1965 Comp. 339, as amended by Exec. Order No. 11375, 3 C.F.R. Ch. IV at 406. See also Exec. Order No. 11478, 34 Fed. Reg. 12985 (1969), calling for affirmative action by Federal departments and agencies to recruit, employ, and upgrade minority group employees. In addition, see A Report to the President from the United States Civil Service Commission, Subject: Equal Employment Opportunity in the Federal Service (1969), in which Civil Service Commission Chairman, Robert E. Hampton, points also to the need specifically to assure open housing near places of Government employment.

⁴⁰Exec. Order No. 11063, 3 C.F.R., 1959-1963 Comp. 652.

⁴¹42 U.S.C. §3608(c) (Supp. IV 1965-1968).

⁴²Statement of Harry Traynor, *supra* note 35.



area. The presence of the installation often provides an impetus to other industrial and governmental development.

For example, the decision to locate the Manned Spacecraft Center in Houston, Texas has brought an economic boom. Since 1960, the population in the area surrounding the Center has increased from 6,500 to 40,000—some 600 percent—while total bank deposits in the area area soared from \$4.8 million in one bank in 1961 to \$30.9 million in five banks in 1966. In the greater Houston area, NASA estimates that for every 100 jobs at the Center itself, an additional 65 jobs have been generated. Largely because of the presence of the Spacecraft Center, Houston has become a magnet for aerospace and electronics industries, attracting 125 aerospace firms alone. Expectedly, the Center has provided a substantial boost to Houston's tourist and convention business.⁴³

Despite the leverage afforded by such substantial economic benefits flowing from its installation locations, the Federal Government has made little effort to assure that those who are poor and

nonwhite share in them. The results of the Federal Government's failure in this regard can be seen from an account of two cases the Commission examined in detail.

NATIONAL BUREAU OF STANDARDS, GAITHERSBURG, MARYLAND

During the mid-1960's, the National Bureau of Standards (NBS), an agency of the Department of Commerce, moved its major facilities and some 2,750 employees from a site in the District of Columbia to new buildings approximately 20 miles away near Gaithersburg, in Montgomery County, Maryland.⁴⁵ The decision to relocate, however, was made in 1955 and more than 100

⁴³Information in this section of the report was gathered in a special study done under contract for the U.S. Commission on Civil Rights by Paul Davidoff of Hunter College. Mr. Davidoff's report based on his study was prepared in 1968 and is in the Commission's files [hereinafter referred to as the *Gaithersburg Study*].

⁴⁵The bulk of the move took place during the period from September 1965 through most of 1966. A number of Bureau units, however, were moved over a period of several years before and after those dates. Letter from George E. Auman, Assistant to the Director of the National Bureau of Standards to the U.S. Commission on Civil Rights, June 6, 1969.

⁴³For a discussion of the impact of the Spacecraft Center on the Houston area, see *Houston Study*, *infra* note 66, at 6-12.

potential sites were examined. Several considerations dictated a suburban location. One was a determination that NBS was a key research facility which, in accordance with national civil defense policy, should be in a "dispersal area."⁴⁶ Another was the need to remove the Bureau's work from the "mechanical, electrical, and atmospheric disturbances of the city."⁴⁷ In its search for a new location, the Bureau gave primary consideration to the following factors: (a) retention of its staff, principally the scientific personnel; (b) access by a major highway or by commuter transportation; (c) minimum distance from the present site acceptable to the Office of Civil Defense.⁴⁸

There is no indication that the housing problems of lower-income employees or minority group members were given special consideration in the process.⁴⁹ It was not until 1963, well after the site had been chosen, that NBS officially recognized that the relocation might create hardships for its Negro employees, and tried to do something to help.

Montgomery County, the new NBS site, is one of the wealthiest counties in the country. In 1960, after the decision to move there had been made but before it actually occurred, the county population was approximately 340,000, of which less than 4 percent were Negroes. The county housed almost a fifth of the Washington metropolitan area population, but only 2.4 percent of the Negro population. Median family income was close to double that of the neighboring District of Columbia—\$9,317 as compared with \$5,933,⁵⁰ with nearly 45 percent of county families having incomes of \$10,000 a year or more in 1960. By contrast less than 22 percent of the families living in the District of Columbia were equally affluent.⁵¹

Montgomery County's housing market reflected this economic well-being. Two-thirds of the county's 1965 housing construction was priced for families with incomes of \$10,000 a year or more, with only 1 percent of it within reach of

families earning less than \$6,000 a year.⁵² Some existing housing was available, undoubtedly at lower cost, but vacancy rates in this fast-growing area were low. For Negro employees, the problem of finding suitable housing near the new site was further compounded by the fact of racial discrimination.⁵³ At the time of the NBS move to Gaithersburg, neither the county, the State, nor the Federal Government had enacted a fair housing law.

It was to this sort of community that NBS moved its 2,750 employees between 1965 and 1967. In 1965, approximately 45 percent of NBS staff earned annual salaries of less than \$8,000; 84 percent of the 475 Negro employees earned less than that amount.⁵⁴

What effect did the move have on NBS employment? Between May 1965 and May 1969, the total NBS complement in the Washington area increased by 125, while Negro employment declined by 73 persons—from 475 to 402. The decline in Negro employees was felt most sharply in the lower level jobs—grades 1 to 8. In May 1965, Negroes made up 24 percent of all workers in these grade levels. By May 1969, they were only 15 percent of the total.⁵⁵

The Bureau conducted a residential survey of its employees in April 1965, before the major portion of its staff moved to the new site, following it up with another in June 1967. During these 2 years, the percentage of white employees living in the District dropped from 37 to 18, while Maryland residency rose from 47 to 71 percent. There was a much smaller shift among Negro employees—a decrease from 93 percent to 81 percent living in the District and a growth from 6 percent to 16 percent for Maryland.⁵⁶ A total of 64 nonwhite employees lived in Maryland in 1967.⁵⁷ By the end of 1967, well over 90 percent of white employees at all levels resided in the suburbs, while less than a third of nonwhite employees lived outside the city.⁵⁸

⁵²*Gaithersburg Study* at 39.

⁵³*Ibid.*

⁵⁴*Id.* Table 1.

⁵⁵Employment statistics obtained from NBS. While the overwhelming majority of NBS employees work at the Gaithersburg site, approximately 250, of whom 40 are Negroes, work in Springfield, Va. The statistics include the Springfield employees as well as those who work at Gaithersburg.

⁵⁶*Gaithersburg Study* at 15.

⁵⁷*Ibid.*

⁵⁸*Id.* 9.

⁴⁶*Gaithersburg Study* at 96.

⁴⁷*Ibid.*

⁴⁸*Ibid.*

⁴⁹NBS did survey the home addresses of *all* its staff members and found that the geographical center of their distribution was coincident with the former site.

⁵⁰1960 census, County-City Data Book, Table 2 at 162-163, Table 4 at 484-485 (1967).

⁵¹*Ibid.*

The statistics suggest that the hardship imposed on NBS employees through the move to the new site fell with disproportionate severity upon Negroes. They also suggest a relationship to the fact that in the face of an expansion of NBS, the number of Negro employees declined. The factors underlying this hardship are apparent. Transportation from the District, where the overwhelming majority of Negro employees continued to reside, was difficult, time-consuming, and expensive. Employees who were interviewed found that they had to travel to work by car. The only alternative means of transportation was a combination of two bus trips from locations in the District to the end of the bus line in Silver Spring, Maryland, followed by a ride through Montgomery County. The total one-way trip cost \$1.25 and took between 1 and 2 hours. Automobile transportation took between a half hour to 1½ hours each way, with the cost ranging generally between \$6 and \$10 a week.

For a time during and shortly after the NBS move, some employees were using the agency's shuttle service to commute between the old building and the new one.⁵⁹ Employees reported that the Department of Commerce forbade this practice and it was discontinued.⁶⁰

With no reasonably convenient means of transportation, why did NBS Negro employees not move nearer to their new place of work? Interviews conducted with the nonprofessional Negro employees showed, for the most part, they had not made an effort to acquire housing in Montgomery County, assuming, correctly, that housing within their income level was not generally available.⁶¹ Professional employees interviewed found racial discrimination a principal hardship in obtaining housing in Montgomery County. Further, anticipation of hostility made them reluctant even

⁵⁹*Id.* 25. n. 5.

⁶⁰*Ibid.* According to NBS, permission to use the shuttle service for commuting purposes was never given. Letter from Lewis M. Branscomb, Director, National Bureau of Standards, to the Commission, dated Oct. 17, 1969. Generally, Federal departments and agencies are prohibited from spending appropriations "for the maintenance, operation, and repair of any Government-owned passenger motor vehicle ...[for] the transportation of officers and employees between their domiciles and places of employment." 31 U.S.C. §638a(c) (2) (Supp. II 1965-1966). Further, the Comptroller General has ruled that an employee must bear the cost of transportation between his residence and his place of duty at his official station 36 Decs. Comp. Gen. 618 (1957).

⁶¹*Id.* 30.

to try. Said one professional describing a house-hunting experience: "It gave you a chilly feeling when you could see people looking out behind their curtains."⁶²

Thus neither of the two principal means by which lower-scale and minority group employees could adjust satisfactorily to the National Bureau of Standards' suburban re-location—adequate transportation and a nearby supply of housing—was available.

NBS officials have not been insensitive to special problems faced by minority group employees as a result of the move. In fact, NBS in recent years has been in the forefront among Federal agencies located in Montgomery County in the effort to expand housing opportunities.

In mid-1963, before the major part of the move began, the NBS Equal Employment Opportunity Officer suggested that an interagency committee be formed with other Federal agencies located in Montgomery County to seek housing for Negro employees.⁶³ It functioned for about a year, but had little success. A request for Federal Housing Administration assistance elicited the response that while FHA would be glad to help with specific problems, it had no program to offer. And a request to the president of the Montgomery County Board of Realtors to speak about housing opportunities for Negroes was declined.⁶⁴

NBS also is among the Federal agencies that maintain a housing office under a governmentwide program initiated in 1966 by the President's Committee on Equal Opportunity in Housing. Through this office, NBS maintains a list of housing available on an open-occupancy basis and helps employees who come to the office with complaints.⁶⁵ NBS also took the lead among Federal agencies in testifying for the open housing ordinance Montgomery County adopted in 1967.

But these efforts have had only limited effect. Undoubtedly, a major reason is that they all were taken after the decision to move to Montgomery County was irreversible, and leverage to create conditions under which Negro employees, particularly those of lower income, could live

⁶²*Id.* 29.

⁶³*Id.* 99.

⁶⁴*Ibid.*

⁶⁵*Id.* 100.

near the new site was considerably lessened. Even now, little in the way of concerted effort is being made to change conditions in Montgomery County by the Federal agencies which maintain installations there.

THE MANNED SPACEFLIGHT CENTER

The Manned Spacecraft Center is located in southeastern Harris County, Texas, midway between Houston and Galveston. Only 8 years ago it was virgin land where cattle grazed. The site was selected in 1961 as a greatly expanded replacement for the facility then at Langley, Virginia. Most of the determining criteria involved physical requirements, such as mild climate, large acreage, adequate water, and availability of long-distance transportation facilities. In addition, they called for a "culturally attractive community to permit the recruitment and retention of a staff with a high percentage of professional scientific personnel," and "close proximity to a well-established institution of higher education."⁶⁷ Adequate lower-income housing was not mentioned.

As of the end of 1967, some 10,000 persons worked at the Spacecraft Center; about half were employed by the Federal Government and the others by Federal contractors.⁶⁸ Negroes, according to the 1960 census, accounted for nearly 20 percent of the Houston metropolitan population, but they represented only 3 percent of Federal employees at the Center,⁶⁹ the great majority concentrated in lower grade jobs.⁷⁰

⁶⁶The information contained in this section of the report was gathered through investigations by U.S. Commission on Civil Rights staff. The report, which is in the Commission files, was prepared early in 1968 and covers the period from the establishment of the Center in Houston through the end of 1967 [hereinafter cited as the *Houston Study*].

⁶⁷NASA Provisional Site Criteria for Proposed Manned Space Flight Laboratory—Essential Criteria, Aug. 17, 1961. The concern with problems of recruiting and retaining high level personnel also appears in connection with other moves of Federal facilities to suburban locations. It is reported that "A major reason for the moves—especially by technically-oriented agencies—is to remain competitive with private businesses in recruiting highly skilled personnel." *The Washington Post*, Aug. 29, at A1.

⁶⁸*Houston Study* at 13.

⁶⁹*Id.* Table 3.

⁷⁰*Id.* Table 4. Two years later, in July 1969, the number of Negro employees had declined by 19. Employment figures obtained from NASA.

Mexican Americans, who comprised about 6 percent of the area's population, constituted 1.7 percent of Federal employees at the Center, but were somewhat less concentrated at the lower wage levels than Negroes. Well over 90 percent of the Federal employees at the Center were Anglos and nearly half earned more than \$8,000 a year.

Public transportation to the Spacecraft Center was totally inadequate; nearly all employees commuted to work by car. The trip was considerably longer for some employees than for others. As an article in the *Houston Chronicle* pointed out:

The executive isn't the long-distance commuter at the Manned Spacecraft Center. . . . It is the apartment dweller or worker who can afford only a smaller home who has to make the long trip.⁷¹

Most Negro employees, heavily concentrated in lower paying positions at the Center, lived in existing Negro areas distant from the installation. As a group, they experienced the greatest hardship. As one Negro employee put it: "Once I traveled 14 miles in Louisiana and I didn't want to, but now I travel twice that distance."⁷²

The high cost of housing near the Center was one factor that deterred most Negro employees from living in close proximity to it. Most of the housing near the Center was new and expensive, the average price being \$30,000.⁷³ Few houses were priced below \$18,000 to \$19,000, and builders, who claimed they could hardly keep up with home demands in the price range above \$30,000, saw no reason to build cheaper houses on expensive land around the Manned Spacecraft Center complex.⁷⁴

Economics, however, were not solely responsible for residential patterns of Negro employees at the Spacecraft Center. While most housing located there was new and expensive, a supply of older, less costly units did exist in communities not far from the Center. They were not open to all. As one official of a NASA contracting company put it: "Anyone can find a house, if Caucasian."⁷⁵

As in other areas of the country, Negro

⁷¹*Id.* 20.

⁷²*Id.* 21.

⁷³*Id.* 23.

⁷⁴*Ibid.*

⁷⁵Interview with H. B. McDonald, Personnel Manager of Philco Ford Company in Clear Lake City, Tex., Dec. 5, 1967.

employees at the Center encountered a variety of discriminatory practices in their search for housing. Real estate agents used subtle tactics to discourage them: advertised vacancies were suddenly filled when Negro applicants appeared, the applicant simply was ignored, or he was told he must talk to someone who was not available. One Negro employee at the Center described his experience in seeking advice from a real estate firm

I went to the . . . office, in Clear Lake City, walked into the office. No one would say anything to me. White people came in and they offered service. I was ignored. . . .⁷⁶

A NASA employee, who also was a part-time real estate agent, told Commission staff that it was the practice of some apartments near the Center to tell Negroes who made telephone inquiries that there were no vacancies. If the person answering the telephone did not recognize the caller as a Negro, he would suggest he come to see the vacant unit. When the Negro appeared the building would be "just filled up."⁷⁷ There also was a reluctance among white owners to sell their houses to Negroes. One such owner planning to sell his house because he was leaving the area was quoted as saying: "I think my neighbors would shoot me if I listed it and sold it to a Negro."⁷⁸

In short, personal preference did not determine the residency of Negro employees at the Center.⁷⁹ Most lived either in Negro neighborhoods near downtown Houston, 15 to 20 miles away, or in a few of the older suburban communities, such as the town of Dickinson in Galveston County, about 7 miles from the Center. A few Negro employees lived among whites in Clear Lake City and Nassau Bay, in new developments housing large numbers of Spacecraft Center employees. At the time of the field work by Commission staff, there were no Negroes in the Center-oriented community of Friendswood.

⁷⁶Houston Study at 26.

⁷⁷Ibid.

⁷⁸Id. Employee Panel II.

⁷⁹U.S. Commission on Civil Rights staff found that although there is a high degree of residential segregation of Mexican Americans generally in Houston, this is not true of Mexican American employees at the Center. The homes of the Mexican American employees, appear to be scattered throughout the metropolitan area, as are those of Anglo employees, the neighborhoods varying according to income and personal preference of individual families.

While the fact of racial discrimination is a key element in the development and perpetuation of residential segregation, Commission staff found that among Negro employees at the Center, as with those at the National Bureau of Standards, anticipation of hostility was an equally strong factor. Many Negroes, aware of long-standing practices, were dissuaded from seeking housing outside areas of existing Negro concentrations for fear of humiliation and rejection. One Negro employee, considering a move to a predominantly white community near the Center, expressed his concern this way:

Do I want to submit my family to the problems? What's the use—a lot of money, hostility, harassment. Do I really want to go through it? . . .⁸⁰

NASA, like NBS, has made efforts to help employees find suitable housing. As in the case of NBS, however, these efforts were made after the site had been selected. In May 1962, after the decision to move had been made and construction had begun, a questionnaire was circulated among Space Center employees, asking for information on the type and price of housing preferred. The results of this questionnaire were published in a "Summary of Findings," which dealt largely in terms of averages, rather than individual family needs and preferences. In view of the unusually large percentage of well paid professionals at the Center, housing needs of lower-income families necessarily were understated. For example, the "Summary of Findings" found:

A composite house based on the most frequently chosen features, will be new, ranch style, brick; of from 1,600 to 2,000 square feet; with three bedrooms and two baths; costing in the \$16,000 to \$19,000 price range.⁸¹

In fact, families desiring a house in that price range represented only a fourth of the respondents. Thirty percent had specified a price below \$16,000.⁸² The report also failed to mention the matter of race.

For approximately a year and a half after relocation to the Houston area, NASA operated a housing service for its employees. According to NASA officials, the service was extremely successful in locating shelter for all incoming staff, including Negroes. One official stated: "It is absolutely

⁸⁰Houston Study at 28.

⁸¹Id. 39.

⁸²Ibid.

unbelievable, we did not receive any complaints. It did not come to our attention that there were any problems." He added: "But there probably were."⁸³

It was the practice to refer Negro employees to local Negroes who showed them around Houston and helped them find temporary or permanent accommodations. No one complained of this segregated treatment.

Later, housing assistance was offered to new employees on an individual basis by the Personnel Division. One Negro employee in the Personnel Division was unofficially responsible for handling housing problems of Negro employees.⁸⁴ The Personnel Division conducted several surveys on minority housing conditions by using a team of black and white employees to test for discriminatory practices. Through these and other means, instances of discrimination came to the agency's attention and were of great concern. The only action taken to meet these problems, however, was to list only housing known to be available on an open-occupancy basis.⁸⁵ The agency did not attempt to exert leverage on the local real estate industry.⁸⁶ One Negro employee gave his view of the situation: "I think that nothing has been done and won't be done."⁸⁷

TOWARD UNIFORM FEDERAL SITE SELECTION POLICY

Over recent years, Federal departments and agencies have become increasingly concerned with hardships imposed on lower-income and minority group employees by location of installations in areas where housing is not open and available to all. For example, the Atomic Energy Commission, before selecting the Batavia, Illinois site for its new plant in 1966, sought to determine the status of civil rights in the various communities under consideration. It was the first time that a Federal agency had consciously considered equal housing oppor-

tunity and other civil rights matters among the criteria for determining the site for its installation. The housing officer program, initiated in 1966 by the President's Committee on Equal Opportunity in Housing, also represented a recognition by Federal agencies of the housing problems of minority group employees, and an acceptance of some responsibility to do something about them. Under this program, a number of Federal departments and agencies have made efforts to assist their employees in finding suitable housing in nonsegregated areas and have taken active roles in the effort to promote equal housing opportunity in the communities in which they are located.

As in the case of NASA and NBS, agencies have tried to meet the housing problems of their employees only after their facilities had been relocated in suburban areas, or the decision to relocate them was irreversible. For example, last year, the Social Security Administration, which relocated earlier from Baltimore City to Baltimore County, issued a directive entitled, "Social Security Administration's Fair Housing Policy Statement," committing the agency to an affirmative fair housing counseling service to help employees obtain housing within commuting distance, initiation of programs to educate employees and the community on fair housing, and assistance to employees encountering discrimination.

The Department of Health, Education, and Welfare (HEW), after committing itself to a move of two major units to an area outside Rockville, in Montgomery County, Maryland, is taking steps to assist its lower-income employees. HEW is attempting to spur construction of federally financed lower-income housing in the county and plans to institute a fare subsidy program to help ease the transportation problems of employees living at some distance from the new site.⁸⁸ HEW also is prepared to guarantee a job in its District of Columbia office for those employees who do not wish to move to Montgomery County or use the fare subsidy program.⁸⁹ Further, according to a newspaper account, HEW and the Department of Housing and Urban Development are planning an affirmative action program in Montgomery County not only calling for strict enforcement of

⁸³*Id.* 41.

⁸⁴*Id.* 42.

⁸⁵*Id.* 42.

⁸⁶*Id.* 43. In a case alleging discrimination against an employee seeking housing in Nassau Bay, NASA officials stated that they would have interceded. The employee, however, preferred housing near the Gulf Freeway.

⁸⁷*Id.* 44. According to NASA, three top administrative officials did discuss the problem with builders and real estate officials, but with little success. Letter from Grove Webster, Director of Personnel, NASA, to the Commission, dated Oct. 21, 1969.

⁸⁸Legislation specifically to authorize the fare subsidy program has been introduced in Congress by Rep. Gilbert Gude. H.R. 14391.

⁸⁹The Washington Post, Aug. 29, 1969, at A1.

open housing laws but also aimed at attracting more Negroes there.⁸⁹ However salutary these measures may prove to be, steps taken before Federal agencies committed themselves to move would have been more effective.

In addition, employees are taking action on their own. A group of HEW employees has brought a lawsuit to stop the planned HEW move.⁹⁰ Among the grounds for the action are that workers in low grades cannot afford commuting to the Rockville site and cannot find adequate housing there.

Despite actions taken by individual departments and agencies, there still is no uniform Federal policy relating the housing problems of employees or potential employees to site selection for Federal installations. The General Services Administration is the one Federal agency possessing the greatest potential for bringing such a policy into effect. Under Federal law, most Government office space is acquired and assigned by GSA after consultation with agency heads.⁹¹

In addition, agencies excluded from GSA'S jurisdiction, such as the Treasury Department, the Post Office Department, and the Atomic Energy Commission,⁹² may request that GSA acquire land for buildings and contract and supervise their construction, development, and equipment.⁹³ Currently, in the National Capital area, 57 percent of Federal employees occupy office space acquired by GSA.⁹⁴ In many other parts of the country, the percentage is higher.

Under existing law, the GSA Administrator is directed to prescribe regulations necessary to carry out his functions.⁹⁵ In turn, executive agencies are directed to issue orders and directives necessary to carry out these regulations.⁹⁶ Further, the President is specifically authorized to prescribe policies and directives which shall govern the Administrator in carrying out his functions.⁹⁷

Economy and efficiency are prime considerations

⁸⁹The Evening Star, Nov. 6, 1969, at B-3.

⁹⁰Local AFGE *et al.* v. Finch *et al.*, Civil Action No. 2878-69 (D.D.C., filed Oct. 10, 1969).

⁹¹40 U.S.C. §490(e) (1964).

⁹²40 U.S.C. §474, 490(d) (1964).

⁹³40 U.S.C. §490(c) (1964).

⁹⁴Letter from John W. Chapman, Jr., Acting Administrator of General Services Administration, to the U.S. Commission on Civil Rights, May 12, 1969, [hereinafter cited as GSA letter].

⁹⁵40 U.S.C. §486(e) (1964).

⁹⁶*Ibid.*

⁹⁷40 U.S.C. §486(a) (1964).

governing GSA site selection policy.⁹⁸ GSA weighs a variety of factors concerning a community under consideration before acquiring office space for a Federal agency there. Among them are local construction and zoning ordinances, regulations dealing with building heights and setbacks, and motor vehicle requirements for parking, maneuvering, and inspections and for motor pool operations.⁹⁹ Availability of public parking facilities within proximity to the site and adequate dining facilities operated on a nonsegregated basis also are among the factors taken into account.¹⁰⁰ Another factor is "convenience to and suitability of environs for employees."¹⁰¹ Until recently, the availability of housing specifically for lower-income and minority group employees was not among the factors considered by GSA.

The attitude and policy of GSA have been changing over recent years from one of bare recognition of any responsibility toward the housing problems of lower-income and minority group employees to at least partial recognition—and acceptance—of responsibility.¹⁰² For example, in January 1967, the President's Committee on Equal Opportunity in Housing wrote to Lawson B. Knott, Jr., then GSA Administrator, to inform him of housing discrimination at Crystal Plaza, a combination residential-office complex in Arlington, Virginia, managed by the Charles E. Smith Company.¹⁰³

The President's Committee stated that a Negro employee of the Food and Drug Administration

⁹⁸In this connection, the GSA Handbook states: "Generally, a site in the central business district offers the greatest potential in meeting . . . these requirements." GSA Handbook, Acquisition of Real Property Except Leasehold Interest, PBS P 1600. 5A ch 1, para. 4a (1964).

⁹⁹GSA Handbook, Acquisition of Real Property Except Leasehold Interest, PBS P 1600. 5A ch. 1, para. 6 (1964).

¹⁰⁰GSA Handbook, Acquisition of Leasehold Interest in Real Property, PBS P 1600. 1 CHGE 8, ch. 3, para. 7b(4) (1966).

¹⁰¹GSA Handbook, Acquisition of Real Property Except Leasehold Interest, PBS P 1600. 5A. ch. 1, para. 7a(2) (1964).

¹⁰²On one occasion, in 1965, in connection with a proposed location of the Geological Survey in Reston, Virginia, GSA required a provision in the agreement providing that Reston would include the housing needs of the agency's employees in its plan for housing construction and would "construct a variety of housing units at reasonable prices and without regard to race, color, creed or national origin." Letter from Robert L. Kunzig, Administrator, GSA, to the Commission, dated Nov. 5, 1969.

¹⁰³Letter from Walter W. Giesey, Staff Director of the President's Committee on Equal Opportunity in Housing, to Lawson B. Knott, Jr., Administrator of GSA, Jan. 3, 1967.

working at Crystal Plaza had been denied an apartment there because of his race. The letter also reported that the U.S. Patent Office intended to lease space at Crystal Plaza and urged that in negotiating leases, GSA should assure that housing would be available on a nondiscriminatory basis. The Committee said:

To negotiate new Federal leases at this time, which would tend to perpetuate these reprehensible policies which are inconsistent with national policy, would be damaging to all programs for equal opportunity.¹⁰⁴

In reply, Mr. Knott acknowledged that discrimination had occurred at Crystal Plaza. He wrote back that "a Negro had made application and was told that in conformity with the policy of the Northern Virginia Home Builders Association, the apartment complex is not integrated."¹⁰⁵ He also reported that following a conversation with the counsel for the Smith Company, the company had agreed to a policy change and was ready to accept an application from a Negro employee. According to Mr. Knott, the company's policy was now as follows:

The Charles E. Smith Company has been ready, willing and able to rent available apartments in the two apartment structures, completed or nearing completion in the Crystal Plaza complex adjacent to office buildings we [GSA] are leasing from the Company, to any regularly employed person assigned office space in one of the buildings in the complex leased to GSA, who in good faith, makes application therefor, regardless of race, color, creed, or national origin.¹⁰⁶

The President's Committee found Mr. Knott's reply unsatisfactory.¹⁰⁷ First, the Committee challenged GSA's apparent acceptance of the Smith Company's earlier discriminatory practices as being "in conformity with the policy of the Northern Virginia Home Builders Association." The Committee also pointed out that the company's new nondiscrimination policy would extend only to persons who also worked at Crystal Plaza and said that this policy "does not adequately or satisfactorily deal with the problem, which is one

of racial, not individual exclusion."¹⁰⁸ GSA did not reply.

In March 1968, GSA officially acknowledged for the first time that housing segregation might cause problems for Federal agencies and their employees. In a telegram dated March 29, 1968, GSA informed all executive agencies under its jurisdiction of a new requirement that "all requests for space must state whether nonsegregated housing must be available in the community for employees who will work in the space to be provided."¹⁰⁹ The telegram continued: "Failure to make this a requirement and so state in Block 16 of Standard Form 81, Request for Space, will indicate nonsegregated housing is not a requirement."¹¹⁰

GSA also informed the agencies of another aspect of the new requirement:

Form 81 will be returned without action by this agency [GSA] where the following conditions exist:

- (1) There is a requirement for nonsegregated housing, and
- (2) Such housing is not available in the community.¹¹¹

Thus the new GSA policy left to individual agencies the decision whether nonsegregated housing would be a condition of its location in a particular community. Further, the telegram suggested that if an agency wished to locate its facilities in a community closed to minority group members, this would be acceptable to GSA. Finally, the telegram had the effect of discouraging Federal agencies from insisting on nonsegregated housing; if they did so and the community in which space was being sought was not open to minority group members, GSA would take no action other than to return their form.

The response to the telegram was one of protest from Federal departments and agencies. A number of agencies, including this Commission, insisted to GSA that "Nonsegregated housing should be considered a prerequisite for all Federal installations."¹¹² The Department of State requested reexamination of this new requirement in

¹⁰⁴ *Ibid.*

¹⁰⁵ Letter from Lawson B. Knott, Jr., Administrator of GSA to Walter Giesey, Staff Director of the President's Committee on Equal Opportunity in Housing, Jan. 6, 1967.

¹⁰⁶ *Ibid.* (emphasis added).

¹⁰⁷ Letter from Walter Giesey, Staff Director of the President's Committee on Equal Opportunity in Housing to Lawson B. Knott, Jr., Administrator of General Services Administration, Feb. 1, 1967.

¹⁰⁸ *Ibid.*

¹⁰⁹ See, e.g., telegram from Lawson B. Knott, Jr., Administrator of GSA, to John A. Hannah, Chairman of U.S. Commission on Civil Rights, Mar. 29, 1968.

¹¹⁰ *Ibid.* (emphasis added).

¹¹¹ *Ibid.*

¹¹² Memorandum from William L. Taylor, Staff Director of U.S. Commission on Civil Rights, to Harry R. Van Cleve, General Counsel of GSA, Apr. 22, 1968.

light of Federal policy to promote equal employment opportunity under Executive Orders 11246 and 11375, as well as to promote equal opportunity in housing under Executive Order 11063.¹¹³ The State Department also stated that the new procedure would be "inconsistent with and could lead to direct contravention of the above cited Executive orders and other Federal policy of this nature."¹¹⁴

Mr. Knott did not agree. "In our view," he said, "the action taken by our telegram is consistent with and affirmatively in furtherance of enunciated equal opportunity policy."¹¹⁵ He added:

Neither of the Executive Orders you cited in your letter has any bearing on the question of equal opportunity in the circumstances here involved.¹¹⁶

The GSA Administrator stated, however, that in view of the enactment of Title VIII of the 1968 Civil Rights Act, which had been signed into law 1 day before his response to the State Department, "We are re-examining the action previously taken and will modify it to any extent necessary to assure conformity to the national policy against discrimination in housing as therein provided."¹¹⁷ In June 1968, following the U.S. Supreme Court decision in *Jones vs. Mayer and Co.*, holding that an 1866 Civil Rights Act "bars all racial discrimination, private as well as public, in the sale or rental of property,"¹¹⁸ the GSA policy, contained in its "Block 16" requirement, appeared even less in conformity with national law and policy. Shortly thereafter, it was rescinded.

GSA's most recent action concerning site selection policies for Federal facilities has been more affirmative. On March 14, 1969, in a memorandum to all GSA Regional Administrators, the agency announced a new requirement concerning availability of low- and moderate-income housing accessible to Federal installations.¹¹⁹ The memorandum stated:

¹¹³Letter from Idar Rimestad, Deputy Undersecretary of State for Administration, Department of State, to Lawson B. Knott, Jr., Administrator of GSA, Apr. 9, 1968.

¹¹⁴*Ibid.*

¹¹⁵Letter from Lawson B. Knott, Jr., Administrator of GSA to Idar Rimestad, Deputy Undersecretary of State for Administration, Apr. 12, 1969.

¹¹⁶*Ibid.*

¹¹⁷*Ibid.*

¹¹⁸392 U.S. 409, 413 (1968).

¹¹⁹Memorandum from William A. Schmidt to all Regional Administrators of GSA, Mar. 14, 1969.

In many of the suburban sections of the urban centers there is an absence of adequate housing for low and middle income Government employees. If the Government leases or constructs facilities in such a section it works an obvious hardship on employees who are unable to obtain suitable housing within reasonable proximity of their place of work, particularly when the section is not readily accessible from other area of the urban center.

Consequently, it should be the policy of the General Services Administration to avoid locations which will work a hardship on employees because (a) there is lack of adequate housing for low and middle income employees within a reasonable proximity and (b) the location is not readily accessible from other areas of the urban center.¹²⁰

Under the new GSA policy, the agency will avoid locations where three conditions exist: (1) the area is known to lack adequate housing for low- and middle-income employees; (2) the area is known to lack such housing within a reasonable proximity; and (3) the area is not readily accessible to other areas of the urban center. The new policy, however, is silent on the issue of availability of housing to minority group members.

The Commission sent a letter of inquiry to GSA, requesting detailed information on implementation and potential impact of this new policy.¹²¹ The response suggests that the new regulations can be of significant value in opening up housing opportunities for lower-income Federal employees. The response also implies, however, that full implementation of this policy lies in the future.¹²¹ a For example, in response to a question concerning the criteria by which GSA would determine whether an area lacks low- and middle-income housing within "reasonable proximity," GSA indicated that no criteria had been established:

We have not concluded that "reasonable proximity" should be specifically defined. Conditions vary widely throughout the country and therefore requirements should probably be established on a case-by-case basis and might include all three factors of time, distance and cost.¹²²

Further, aside from a general FHA guideline

¹²⁰*Ibid.* In May 1969 the new policy was published in the Federal Register. 34 Fed. Reg. 8273.

¹²¹Letter from Howard A. Glickstein, Acting Staff Director, to Robert L. Kunzig, Administrator of GSA, Apr. 22, 1969, [hereinafter cited as Commission Letter]. See Appendix A.

¹²¹† GSA recently has informed the Commission that implementing guidelines concerning its new policy are in the process of preparation. Letter from Robert L. Kunzig, Administrator, GSA, to the Commission, dated Nov. 5, 1969.

¹²²Letter from John W. Chapman, Jr., Acting Administrator, General Services Administration, to the Commission, dated May 12, 1969 [hereinafter cited as GSA letter]. See Appendix B.

concerning the amount that families should pay for housing in relation to income, GSA has made no effort to define the term "low- and middle-income," nor to relate adequacy of the housing supply to such essential factors as family size.¹²³ In addition, GSA has established no criteria to determine whether the facilities are "readily accessible" to other areas of the urban center, as required under its new policy.

The term "readily accessible" applies to situations that require a location where adequate housing does not exist which is generally the condition in a downtown urban area. We have not concluded that this term be specifically defined and recognize that factors to be considered include an adequate highway system, sufficient parking facilities and available public transportation.¹²⁴

The Commission was particularly interested in learning, in the case of Federal facilities to be located, relocated, or expanded in areas currently lacking adequate low- and middle-income housing, what assurances would be required that such housing would be constructed within a reasonable time. GSA replied that its new policy "would generally preclude these areas from being considered a satisfactory location for a Federal facility."¹²⁵

In cases where an agency's mission dictates that it be in a particular area, GSA might have to consider low- and middle-income housing to be constructed within a reasonable time. Satisfactory evidence of proposed construction would have to be provided and could include assurances either from the offeror or the developer that the housing project has progressed to the point where the site has been established, the project has been designed, construction financing has been arranged, and appropriate local ordinances have been observed.¹²⁶

What of those cases where these assurances cannot be obtained, but it is nonetheless necessary to locate in a particular area? Federal departments and agencies are authorized to provide quarters and facilities for their employees "when conditions of employment or of availability of quarters warrant the action."¹²⁷ Under policies established by the Bureau of the Budget, housing for employees may be provided by agencies located "at remote stations, foreign service posts, or under other circumstances

where the head of the agency determines that necessary service cannot be rendered unless Government-owned houses are constructed for employees."¹²⁸

In such cases, the agency head's determination must be based on his supported finding that the available supply—present and prospective — of governmental and private housing within reasonable commuting distance will not meet the necessary housing requirements.¹²⁹

The Commission asked, with respect to those cases, what steps GSA is prepared to take on its own, or to recommend, to provide, adequate low- and middle-income housing in the event assurances of adequate supply cannot be obtained. GSA did not reply to this question.

In addition to problems of implementation, the new policy fails to take into account special problems minority group members face in attempting to acquire housing outside existing areas of concentrations. The GSA policy deals, therefore, only with part of the condition to which it is addressed. In its letter, the Commission inquired as to GSA's position on the desirability of broadening its policy to take these problems into account. The Commission pointed out that despite enactment of Title VIII of the Civil Rights Act of 1968 and the Supreme Court's decision in *Jones vs. Mayer and Co.*¹³⁰ barring housing discrimination, enforcement of the requirements contained in these laws is limited largely to litigation, with the burden of securing the rights falling mainly on minority group members discriminated against. The Commission also pointed out:

... in view of the many decades during which housing discrimination has been the rule rather than the exception, segregation and the exclusion of minority group members from most suburban parts of metropolitan areas have become the common and accepted residential pattern. As you can appreciate, unless affirmative steps are taken by the Federal Government, many minority group employees, for fear of humiliation or rejection, will be reluctant to attempt to obtain housing near the relocated Federal facility where they are employed.¹³¹

The Commission asked about the desirability of adopting the following requirements to assure access of minority group members to housing in the

¹²³ *Ibid.*

¹²⁴ *Ibid.*

¹²⁵ *Ibid.*

¹²⁶ *Ibid.*

¹²⁷ U.S.C. §5911(b) (1964).

¹²⁸ Bureau of the Budget Circular No. A-18, revised Oct. 18, 1957.

¹²⁹ *Ibid.*

¹³⁰ 392 U.S. 409 (1968).

¹³¹ Commission Letter.

area in which a Federal facility is to be located:

- (1) The enactment of a comprehensive enforceable fair housing law by the community;
- (2) The adoption of appropriate measures by the local governing bodies, including public statements by local officials, to make it known that minority group members are welcome;
- (3) The adoption of affirmative marketing techniques by the local real estate industry to attract minority group employees to the community.

The Commission also invited suggestions from GSA regarding other requirements or conditions that would be effective in assuring open access for minority group employees. GSA replied as follows:

Low and middle income employees, as referred to in our policy, include all employees at these earning levels without regard to race, creed, or color. In view of this and the fact that the Federal law prohibits segregation, we did not consider it essential to repeat a specific requirement for nondiscrimination.¹³²

The Commission is not as sanguine as GSA that the existence of a Federal law prohibiting housing discrimination can, in and of itself, quickly reverse patterns and practices of discrimination that have been followed for decades, especially since the burden of asserting these rights falls mainly on the victims of discrimination themselves. Moreover, in view of the direction contained in Section 808(d) of the 1968 Civil Rights Act—that “all executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of [fair housing]”—in the Commission’s view, GSA is under a statutory obligation to include matters of racial discrimination in its new policy.

In its letter, the Commission also expressed concern over the growing racial and economic separation in metropolitan areas and expressed the belief “that the Federal Government, through the leverage of the substantial economic benefits generated by its installations, could be a significant force for reversing this trend and facilitating open access to housing throughout metropolitan areas.”¹³³ The Commission asked whether GSA believed it would be desirable to use such Federal leverage for these purposes and whether it would be desirable for GSA publicly to enunciate such a policy.¹³⁴ GSA replied that it provides office space

¹³²GSA Letter.

¹³³Commission Letter.

¹³⁴*Ibid.*



for only a portion of all Federal personnel—for example, in the National Capital region, it is responsible for only 57 percent:

In view of this we do not feel that it would be appropriate for GSA to decide and publicize that our program of locating Federal agencies be used as a leverage to enhance open access to housing.¹³⁵

The Commission agrees that GSA’s jurisdiction is not limitless. The Commission does not concede, however, that its jurisdiction is so limited as to make it inappropriate for it to exercise leadership in promoting a policy of open access to housing. Beyond this, the Commission believes it is essential that Federal policy be uniform, applying not only to agencies served by GSA but also to those which by law obtain their own space. For this purpose, a directive from the President would be the most appropriate means.

¹³⁵GSA Letter.

CONCLUSION

The principles of equal housing opportunity and equal employment opportunity are cornerstones of national policy. Through judicial decisions, legislation, and Executive action, the Federal Government has enunciated these principles as well-defined rights, extending to public and private sectors alike. Yet, in one area where the Federal Government alone is involved—site selection for Federal installations—it has failed to act in a manner to promote these principles, or even fully to recognize the effect its decisions have on their achievement.

The Federal Government, like private industry, has been locating or relocating many of its installations in suburban and outlying parts of metropolitan areas. This decentralization—public and private—has had the effect of preventing central cities from sharing equitably in the benefits of metropolitan economic development and exacerbating the already towering problems they face. It also has caused severe hardship to lower-income employees—particularly those who are minority group members. Because of race and economic factors, these employees are largely denied housing accessible to suburban sites of the installations. These are the people least able to protect their own interests and who have the narrowest range of housing choice. Yet, Federal site selection decisions have been made without regard to their needs or desires. As in other areas, these decisions have been imposed upon them through a process in which they have not participated and in which their vital interests have been ignored. In no case has the Federal Government insisted that a community be open to all before locating there. In

no case has the Federal Government used the leverage of the substantial economic benefits generated by the presence of its facilities to assure housing opportunities for lower-income and minority group employees.

Although individual agencies in some instances have made efforts to ease the housing and transportation problems facing their employees, in most cases they have acted only after their installations were moved or the decisions to move them were irreversible. This necessarily reduced the effectiveness of their actions. Until recently, the General Services Administration (GSA), which is responsible for acquiring facilities for most Federal departments and agencies, largely ignored these problems. Although GSA traditionally has considered a variety of factors concerning particular communities before acquiring space for Federal agencies there, open access to housing for lower-income and minority group employees was not among them.

Last year, GSA adopted measures that recognize the hardships caused to lower-income employees and seek to deal with them. While a clear step forward, the new procedures attack only a part of the problem—economics. They fail to deal with discrimination or to accept the necessity for insisting that exclusionary communities, in fact, must be open to all. Without specific measures addressed to this part of the problem, it is unlikely that the related goals of equal housing opportunity and equal employment opportunity will be advanced materially.

Of equal concern to the Commission is the growing trend toward racial and economic separation in metropolitan areas and the need to reverse it. Here, too, Federal site selection policy has been inadequate.

The Commission recognizes that, despite the leverage afforded by the substantial economic benefits frequently generated in communities by Federal installations, Federal site selection policy cannot, in and of itself, assure the goals of equal housing opportunity and equal employment opportunity or reverse the trend toward racial and economic separation. In many parts of the country, however, Federal policy can contribute significantly to these ends. Moreover, the Commission believes that the Federal Government has an affirmative obligation to be a leader in the cause of equality, and that its first order of business should be to assure that its own policies uniformly are aimed at achieving it.

FINDINGS

BACKGROUND OF THE PROBLEM

1. Industry—public and private—is increasingly locating outside central cities in suburban and outlying parts of metropolitan areas, intensifying the economic problems of cities. The trend toward suburban location is being led by the manufacturing industry, which offers many employment opportunities for relatively unskilled persons, the great majority of whom, unable to obtain housing in the relative affluence of the suburbs, continue to reside in the central city.

2. For minority group members, a disproportionate number of whom are economically disadvantaged, the additional barrier of racial discrimination also prevents access to housing and jobs in suburban and outlying parts of metropolitan areas.

3. Adequate transportation, one way to bridge the growing physical distance between location of jobs and place of residence of lower-income employees or potential employees, is largely unavailable. Public transportation is oriented toward bringing white-collar suburbanites to central city job districts in the morning and returning them at night, and does not adequately serve the “reverse commuter”—the central city resident seeking to travel to the suburbs in the morning and return at night.

4. Housing, the surest access to suburban job locations, generally is unavailable at realistic prices for lower-income and minority group employees.

a. Federal low-cost housing programs rarely have operated in the suburbs because of the veto power, in the form of “workable program” and other local government approval requirements, afforded local jurisdictions in the legislation governing many of these programs.

b. A variety of suburban policies and practices, such as large-lot zoning, minimum house size requirements, and arbitrary building codes, also serve to exclude low cost housing.

c. For Negroes and other minority group members the problem is compounded by the long history and persistence of racial discriminatory practices, which make them unable or reluctant to

acquire housing outside areas of existing central city concentrations.

FEDERAL SITE SELECTION AND PRACTICE

5. The Federal Government has joined in the trend toward decentralization by locating, relocating, and expanding many of its installations in suburban and outlying parts of metropolitan areas.

6. Economic factors underlie Federal site selection decisions, as they do those of private industry. In addition, however, considerations of national policy also determine the location of Federal facilities.

7. Despite the fact that equal employment opportunity and equal housing opportunity are cornerstones of national policy, the Federal Government has been inadequately concerned with the impact of its site selection policy in achieving these related goals.

a. To the extent agencies have considered the effect on employees or potential employees of the location of their facilities, their concern has been limited largely to problems of recruiting and retaining high level staff.

b. The housing problems of lower-income and minority group employees have not been among the factors considered in determining the site for a Federal installation.

8. Federal site selection policy has ignored the need to assure that central cities as well as suburbs share equitably in the economic benefits generated by Federal installations.

9. The location of Federal facilities in the suburbs has caused problems for lower-income employees, particularly minority group members, in acquiring or retaining employment.

a. In the move of the National Bureau of Standards from the District of Columbia to Gaithersburg, Maryland, the number of Negro employees has declined substantially over the 4 years since the move took place.

b. In the case of the Manned Spacecraft Center, located in an area outside Houston, Texas, Negroes, who accounted for nearly 20 percent of the metropolitan population, represented only 3 percent of the Federal employees at the Center. The overwhelming majority was in low-paying jobs.

10. Inadequate income and racial discrimination are the factors principally responsible for the hardships minority group members encounter in their efforts to live in close proximity to suburban Federal installations.

a. Suburban housing is priced beyond the reach of many minority group members, a disproportionate number of whom are economically disadvantaged.

b. Many minority group members, aware of long-standing housing discrimination practices, are dissuaded from seeking housing outside areas of minority group concentration for fear of humiliation or rejection.

11. A number of Federal departments and agencies have recognized the problems created for lower-income and minority group employees by suburban locations, and have taken some steps to meet these problems. In most cases, however, these steps have been taken only after the move occurred or the decision to move was irreversible, considerably lessening their effectiveness.

12. Until early 1969, the General Services Administration (GSA), responsible for acquiring and assigning office space for most Government agencies, had failed to adopt policies to eliminate or reduce hardships imposed on lower-income and minority group members by suburban locations.

a. Although GSA traditionally has considered a variety of factors regarding particular communities before acquiring office space for Federal agencies, adequate housing for lower-income and minority group employees was not among them.

b. GSA's first official recognition that housing segregation caused problems to Federal agencies and their employees was in the form of a requirement that left to the discretion of individual agencies whether the availability of nonsegregated housing would be a condition to locating in particular communities.

13. GSA's current policy—to avoid locations lacking adequate housing within reasonable proximity for low- and middle-income employees, and not readily accessible from other areas of the urban center—is inadequate to meet the problem of assuring adequate housing for lower-income and minority group employees.

a. The policy currently exists largely in skeleton form. Little in the way of detail or definition yet has been provided to clarify the circumstances under which communities will be deemed ineligible as Federal installation sites.

b. The policy is silent on special problems minority group members face in attempting to acquire housing outside areas of existing minority group concentrations. Despite the fact that under the Federal Fair Housing Law the burden of securing the rights protected falls mainly on minority group members discriminated against and

despite the impact of the many decades of housing discrimination and segregation, GSA takes the view that existence of the Fair Housing Law, alone, adequately meets the problem.

c. The policy ignores the problems stemming from the growing trend toward racial and economic separation in metropolitan areas and makes no effort to contribute to their elimination.

14. For full effectiveness, a policy of open access to housing for lower-income and minority group employees must be uniform, applying not only to agencies served by GSA but also to those which have authority to obtain their own space. For this purpose, leadership must be exercised ultimately by the President.

RECOMMENDATIONS

The Commission recommends:

That the President issue an Executive order establishing a uniform policy of site selection governing location and expansion of Federal installations. The Executive order should state as the goals of this policy:

(1) To expand housing opportunities for lower-income and minority group families outside areas of existing poverty and minority group concentration; (2) to facilitate employment opportunities for lower-income and minority group employees; (3) to promote the balanced economic development of central cities and suburban parts of metropolitan areas; and (4) to contribute to the elimination of racial and economic separation.

The Executive order should direct the General Services Administration and all other Federal departments and agencies having responsibility for determining sites for Federal installations to apply the following as prerequisites to approving any community as a site for a Federal installation:

1. The community under consideration shall demonstrate that there is a sufficient supply of housing within means of lower-income families to meet the needs of present and potential employees, or that such a supply of housing will be produced within a reasonable period of time after the installation is to be located there. Among the ways in which this requirement may be satisfied should be the following:

a. The community has taken the necessary steps, including adoption of a "workable program" or local government approval, where required, to permit operation of the various Federal lower-income housing

programs requiring such governmental action;

b. The community maintains zoning ordinances, building codes, and other appropriate land use requirements that facilitate provision of lower-income housing in all sections of the community; and

c. Plans for such lower-income housing adopted by builders or developers have reached an appropriate point of maturity.

2. The community under consideration shall demonstrate that conditions exist, or will exist within a reasonable time, to facilitate minority group residence within its borders on a nonsegregated basis. Among the ways in which this requirement may be satisfied should be the following:

a. The community maintains a comprehensive, enforceable fair housing law;

b. Members of the local housing and home finance industry have adopted affirmative marketing policies designed to attract minority group members to the community;

c. Appropriate steps have been taken by local governing officials and by local civic groups and leaders to assure that all facilities and services in the community, such as schools, health facilities, and places of public accommodation, are open to minority group families on an equitable and desegregated basis, and that minority group members will participate fully in community life.

3. All plans to locate, relocate, or expand Federal installations should be submitted to the Department of Housing and Urban Development, which would determine whether such plans will contribute to achieving the goals of the Executive order, and whether the community in which the Federal installation is to be located satisfies the conditions listed in 1 and 2, above. This determination should be made binding on the department or agency involved. The Department of Housing and Urban Development also should be directed to provide advice or assistance requested by other departments and agencies or by communities in their efforts to achieve the goals of the Executive order.

4. All Federal departments and agencies currently operating installations in communities which fail to satisfy the requirements of the Executive order should be required to develop and adopt affirmative action programs to promote achievement of the goals of the Executive order. In

the event such a program proves unsuccessful and a community in which Federal installations are located fails to take the steps required by the Executive order, or fails to give satisfactory assurance that such steps will be taken within a reasonable period of time, it should be rendered ineligible for future expansion by installations already located there or by other Federal departments or agencies. Federal departments and agencies also should be required, where feasible, to take action necessary to remove their installations from such a community, including nonrenewal of leases and disposal of federally owned buildings.

5. In cases where the location of the installation in such a community is required by, or its removal is inconsistent with, the mission of the department or agency and the supply of housing for lower-income employees within reasonable commuting distance is inadequate, the department or agency should exercise its authority to provide housing to meet the needs of current and potential lower-income employees. Congress should appropriate sufficient funds for this purpose.

6. All Federal departments and agencies should be directed to establish a fair housing office, with responsibility to provide assistance to lower-income employees and minority group employees regarding location of housing in reasonable proximity to the installation, legal assistance in asserting rights to housing secured under Federal, State, or local law, and full agency support in securing those rights.

7. The President should request the Attorney General to determine whether Federal departments and agencies have authority under existing law to provide transportation assistance to facilitate access of center city employees and potential employees to suburban Federal installations. If it is determined that such authority exists, the President should direct Federal departments and agencies to provide such assistance to ensure access from areas where lower-income and minority group employees and potential employees now reside. If it is determined that such authority does not exist, the President should request additional legislation to empower Federal departments and agencies to provide such assistance.

Separate Statement by Commissioner Freeman

It is all too easy to view the trend toward suburbanization of industry as resulting entirely from impersonal factors beyond our control. Population shifts, technological changes, and rising land costs are among the reasons given to account for this trend. To some extent this is true. It would be false, however, to attribute the trend entirely to external forces or to accept the notion that we lack the capacity to guide the direction of social and economic growth. As this report clearly demonstrates, in one important area—Federal site selection for its own installations—the problem is not that we have been unable to govern events, but that we have not really tried.

Thus the Federal Government has tended to follow the path of least resistance—to be guided largely by the standards of the market-place in determining where to locate its facilities—and has failed to use the leverage afforded through the economic benefits generated by its installations to further key national policies. That this leverage exists is beyond question. Over the years, competition among communities for Federal installations has been keen, often fierce, and for good reason. There are numerous examples of communities that have been selected as sites for major installations and, as a result, have been transformed from backwater villages into booming centers of industry and commerce. Thus the Federal Government is in a position to insist on certain conditions in exchange for the economic windfall its installations frequently provide. Equal opportunity never has been among these conditions. As the report suggests, this is a dismaying abdication of Federal responsibility.

I find it equally dismaying that Federal site selection policy is tending to ignore the needs of central cities in favor of following the trend toward suburban locations. For the Federal Government to abandon the central city as its home, whether for economic reasons, real or imagined, or out of a desire to compete with private industry for skilled workers who live in the suburbs, represents a shallow view of the function of Government. Moreover, in terms of the well-being and vitality of metropolitan areas, this policy is potentially disastrous.

The central city, despite its towering problems, remains the heart of the metropolitan area. Its banking institutions are the center of metropolitan finance. Its museums and concert halls are the center of metropolitan culture. Its colleges and universities are the center of metropolitan learning.

In short, we can ill afford to let the center city wither and decay, for if it does, the social and economic life of the entire metropolitan area is threatened.

I am not suggesting that the proper solution lies in locating Federal installations exclusively in central cities. Rather, it is essential that Federal policy view the entire metropolitan area as the single social and economic unit that it is, not as an unrelated group of independent and competing jurisdictions. The plain fact is that the various communities that make up the metropolitan area are interdependent, their interests inextricably tied. In a real sense they sink or swim together. Therefore, the need is to determine Federal site selection, as well as other public policy, through criteria that will promote sound economic development of the entire metropolitan area and not sacrifice the interests of one part to those of another.

I wish to stress one additional point—a point concerned with something more than economics and tax bases and the rest. Over the years I have served as a member of the Commission, I have participated in hearings and other Commission activities in cities and metropolitan areas across the country. I have seen firsthand evidence of what is happening in these great population centers. Social and economic injustices are being perpetuated. Racial hostility and mistrust are increasing. Above all, racial and economic stratification is hardening. Several years ago I expressed my concern over these trends: “We are now on a collision course which may produce within our borders two alienated and unequal Nations.”

Events since I wrote those words have convinced me that we still have not veered from the collision course, that our society continues to develop in ways which widen the gap between the poor and the affluent and intensify racial isolation. This, in my view, is the most pressing of all the Nation's domestic problems. It can be resolved only through the combined resources and dedication of all segments of society—public and private. It is essential that the Federal Government exercise a position of leadership and that it consciously utilize its full resources and its full authority to this end. Federal site selection policy can be an important instrument through which the collision I spoke of can be avoided and by which we can break down the walls that separate us.

Chairman Hesburgh, Vice Chairman Horn, and Commissioners Garcia, Mitchell, and Rankin concur in this Statement.

**UNITED STATES COMMISSION
ON CIVIL RIGHTS**

Washington, D.C. 20425

April 22 1965

Mr. Robert L. Kunzig
Administrator
General Services Administration
Washington, D.C. 20405

Dear Mr. Kunzig:

This Commission, in accordance with its statutory responsibilities to study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution and to appraise Federal laws and policies with respect to such denials of equal protection of the laws, has been engaged for some time in a study of the housing problems of minority group families, particularly those of low- and moderate-income. A substantial part of this study is concerned with the current and potential impact of site selection policies for Federal installations in opening up housing opportunities to minority group members throughout metropolitan areas.

We have found that at many Federal installations located or relocated outside central cities, minority group employees, especially those at lower grade levels, have great difficulty in obtaining adequate housing within reasonable proximity of the installation and must commute long distances at considerable expenditure of time and money. We also have found that the proportion of minority group persons employed at these installations is considerably below that which could be expected from their representation in the metropolitan area population. In addition, we have found that in the past the Federal Government exhibited little concern about these problems and made little effort to utilize the leverage of the substantial economic benefits afforded by its installations to open up housing opportunities for minority group members.

In this connection, we have noted a memorandum dated March 14, 1969, from William A. Schmidt to all GSA Regional Administrators entitled, "Availability of Low and Middle Income Housing in Areas

where Federal Facilities are to be Located.” The Commission is gratified to learn of the new policy embodied in this memorandum and believes it can be of benefit in assuring adequate housing for low- and moderate-income Federal employees.

In order to evaluate the potential impact of the new GSA policy for purposes of our study, we have a number of questions concerning its implementation and would appreciate your responding to them.

1. *Adequate Housing for Low-and Middle-Income Employees*

The new GSA policy appears to be one of avoiding locations where three conditions are met:

The area is known to lack adequate housing for low- and middle-income employees;

The area is known to lack such housing within a reasonable proximity; *and*

The area is not readily accessible to other areas of the urban center.

a. By what means will GSA determine whether the area lacks adequate housing for low- and middle-income employees? For example, will GSA personnel physically inspect the existing inventory of housing in the area? b. What is meant by the term “reasonable proximity?” (1) Is this determined on the basis of distance, alone?

(1) Is this determined on the basis of distance, alone?

(2) Is the amount of commuting time also taken into consideration? If so, what criteria are considered in the analysis?

(3) Is the commuting expense also utilized as a factor in determining “reasonable proximity?” If so, what criteria are considered in the analysis?

c. We would like to know what is meant by the term “low- and middle-income,” as used in the GSA memorandum.

(1) What criteria will be used to determine in each locality the income range encompassed by this term?

(2) What criteria will be used to determine in each locality the price range for sales housing believed to be within the means of “low- and middle-income employees?”

(3) What criteria will be used to determine in each locality the rent range for rental housing believed to be within the means of such employees?

(4) To what extent will family size be taken into account in determining the adequacy of the supply of housing for low- and middle-income employees?

d. In the case of Federal facilities to be located or relocated in areas lacking adequate low- and middle-income housing which are not readily accessible from other areas of the urban center (as for example, the new AEC site in Weston, [Batavia] Illinois or outlying parts of Montgomery County, Maryland):

(1) What assurances will be required that adequate low- and middle-income housing will be constructed within a reasonable time?

(2) Of whom will such assurances be required—States, local governments, members of the private housing and home finance industry?

(3) In the event such assurances cannot be obtained, will GSA nonetheless concur in the selection of the area delineated by the Federal agency? If so, under what circumstances?

(4) In the event such assurances cannot be obtained, but it is nonetheless deemed necessary to locate the facility in the area, what steps is GSA prepared to take on its own, or recommend, to provide adequate low- and middle-income housing?

e. What standards will GSA regional offices use in determining whether the facilities are “readily accessible” to other areas of the urban center?

(1) If the facility is accessible only by automobile, will that satisfy the criterion of being “readily accessible?”

(2) To what extent will the GSA regional office inquire into the extent to which employees or potential employees, especially those at lower grade levels, actually have automobiles at their disposals?

(3) Under what circumstances will it be considered necessary that low-cost mass transportation be available?

2. *Housing Available on a Nondiscriminatory Basis*

We recognize that Title VIII of the Civil Rights Act of 1968 and the Supreme Court's decision in *Jones v. Mayer and Co.* represent a comprehensive Federal prohibition against housing discrimination. Enforcement of the requirements contained in these laws, however, is limited largely to litigation, and the burden of securing the rights provided in these laws falls mainly on the minority group members discriminated against. Further, in view of the many decades during which housing discrimination has been the rule rather than the exception, segregation and the exclusion of minority group members from most suburban parts of metropolitan areas have become the common and accepted residential pattern. As you can appreciate, unless affirmative steps are taken by the Federal Government, many minority group employees, for fear of humiliation or rejection, will be reluctant to attempt to obtain housing near the relocated Federal facility where they are employed.

We note that the new policy embodied in the GSA memorandum is silent with respect to measures or standards to assure that housing is in fact available to minority group employees, especially those of "low-and middle-income." We believe the Federal Government, through GSA, has an obligation to adopt such measures or standards.

We would like to know GSA's position regarding the desirability of adopting such measures or standards to assure access of minority group members to housing in the area in which the Federal facility is to be located or relocated. For example:

- a. Would it be desirable to require the enactment of comprehensive enforceable fair housing laws by the communities in the area as a condition to the selection of the area for the location of a Federal facility?
- b. Would it be desirable to require the adoption of appropriate measures by the local governing bodies, including public statements by local officials, to make it known that minority group members are welcome?
- c. Would it be desirable to require the adoption of affirmative marketing techniques by the local real estate industry to attract minority group employees to the communities?
- d. What other requirements or conditions do you believe would be effective in assuring open access for minority group employees to housing in areas from which they traditionally have been excluded?

3. *Use of the Leverage of Federal Installations to Open Up Housing Opportunities for Minority Group Members*

The stated purpose underlying the new GSA policy is that the absence of adequate housing for low- and middle-income Government employees in areas in which Federal installations are located or relocated "works an obvious hardship on employees who are unable to obtain suitable housing within reasonable proximity of their places of work." The Commission is in accord with this purpose. We also are concerned, however, over the growing trend toward racial and economic separation in metropolitan areas and believe that the Federal Government, through the leverage of the substantial economic benefits generated by its installations, could be a significant force for reversing this trend and facilitating open access to housing throughout metropolitan areas.

- a. Do you believe it would be desirable to use such Federal leverage for these latter purposes?
 - b. Do you believe it would be desirable for GSA publicly to enunciate such a policy?
- The Commission currently is in the process of preparing a report to the President and the Congress based on its housing study. Therefore, we would appreciate a response to this letter no later than May 5.

Sincerely yours,

Howard A. Glickstein
Acting Staff Director

APPENDIX B

GENERAL SERVICES ADMINISTRATION

Washington, D.C. 20405

May 12, 1969

Mr. [Howard] A. Glickstein
Acting Staff Director
United States Commission on
Civil Rights
Washington, D.C. 20425

Dear Mr. Glickstein:

Thank you for your letter of April 22 expressing the Commission's interest in the effect that our policy on the location of Federal facilities may have in assuring adequate housing for low and middle income Federal employees.

Your inquiry touches upon several of the questions of implementation that my staff has been studying. The establishment of firm criteria and definite guidelines, I am sure you will understand, is most difficult, particularly when you consider that they must be applicable on a nationwide basis. We welcome this opportunity to review with you our present thinking and trust that the discussion in the attached paper will be helpful.

We appreciate your concern and will see that the thoughts in your letter are carefully considered in the development of our criteria.

Sincerely,

John W. Chapman, Jr.
Acting Administrator

Enclosure

1. *Adequate Housing for Low and Middle Income Employees*

You have correctly summarized the objective of our policy as being one of avoiding a location for a Federal facility that lacks adequate housing for low and middle income employees; or lacks such housing within a reasonable proximity or is not readily accessible to other areas of the urban center.

- a. By what means will GSA determine whether the area lacks adequate housing for low and

middle income employees? For example, will GSA personnel physically inspect the existing inventory of housing in the area?

It is expected that this will be accomplished by first obtaining from the agency concerned the housing requirements as established by a survey of its employees. These requirements would be made a part of our solicitation for space and the offeror would be required to provide evidence of the adequacy of housing to meet the employee needs. The information so submitted would be subject to a review by GSA and the agency concerned and very possibly could include an on-site inspection.

b. What is meant by the term "reasonable proximity"?

We have not concluded that "reasonable proximity" should be specifically defined. Conditions vary widely throughout the country and therefore requirements should probably be established on a case-by-case basis and might include all three factors of time, distance and cost.

c. We would like to know what is meant by the term "low and middle income" as used in the GSA memorandum.

No effort has been made to define the limits of low and middle income. It is our feeling that it would include any employee whose income is not sufficient to enable either renting or purchasing a home in the area offered as a location for a Federal facility. The guideline might be that set by the Federal Housing Administration of no more than 25% of gross annual income to be spent on rent, or not more than 2½ times gross annual income as the value of the house being purchased. Income levels are to be furnished by the agency concerned and the offeror would be required to submit evidence of the availability of rentals or sales within these ranges.

d. In the case of Federal facilities to be located or relocated in areas lacking adequate low and middle income housing which are not readily accessible from other areas of the urban center (as for example, the new AEC site in Weston, [Batavia] Illinois, or outlying parts of Montgomery County, Maryland), will low- and middle-income housing proposed for construction be considered? The application of our policy under the situation as set forth here would generally preclude these areas from being considered a satisfactory location for a Federal facility. It is quite possible however that an agency's mission may dictate that it be located there and under those circumstances we may have to consider low and middle income housing proposed to be constructed within a reasonable time. Again, it would be the responsibility of the offeror to provide satisfactory evidence of proposed construction and could possibly include assurances either from the offeror or the appropriate developer that the housing project has progressed to the point where the site has been established; the project has been designed; construction financing has been arranged and that appropriate local ordinances have been observed as indicated by zoning authorization and building permits.

e. What standards will GSA regional offices use in determining whether the facilities are "readily accessible" to other areas of the urban center?

The term "readily accessible" applies to situations that require a location where adequate housing does not exist which is generally the condition in a downtown urban area. We have not concluded that this term be specifically defined and recognize that factors to be considered include an adequate highway system; sufficient parking facilities and available public transportation.

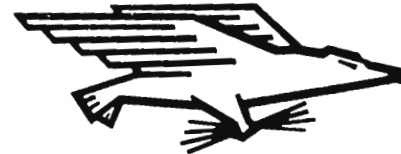
2. *Housing Available on a Nondiscriminatory Basis*

Low and middle income employees as referred to in our policy include all employees at these earning levels without regard to race, creed or color. In view of this and the fact that the Federal law prohibits segregation, we did not consider it essential to repeat a specific requirement for nondiscrimination.

3. *Use of Leverage of Federal Installations to Open Up Housing Opportunities for Minority Group Members*

It is not generally understood that GSA houses only a portion of Federal personnel. In the National Capital Region, for example, this portion is about 57%, the remaining 43% being the responsibility of other executive departments and agencies and the Architect of the Capitol. In view of this, we do not feel that it would be appropriate for GSA to decide and publicize that our program of locating Federal agencies be used as a leverage to enhance open access to housing.

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