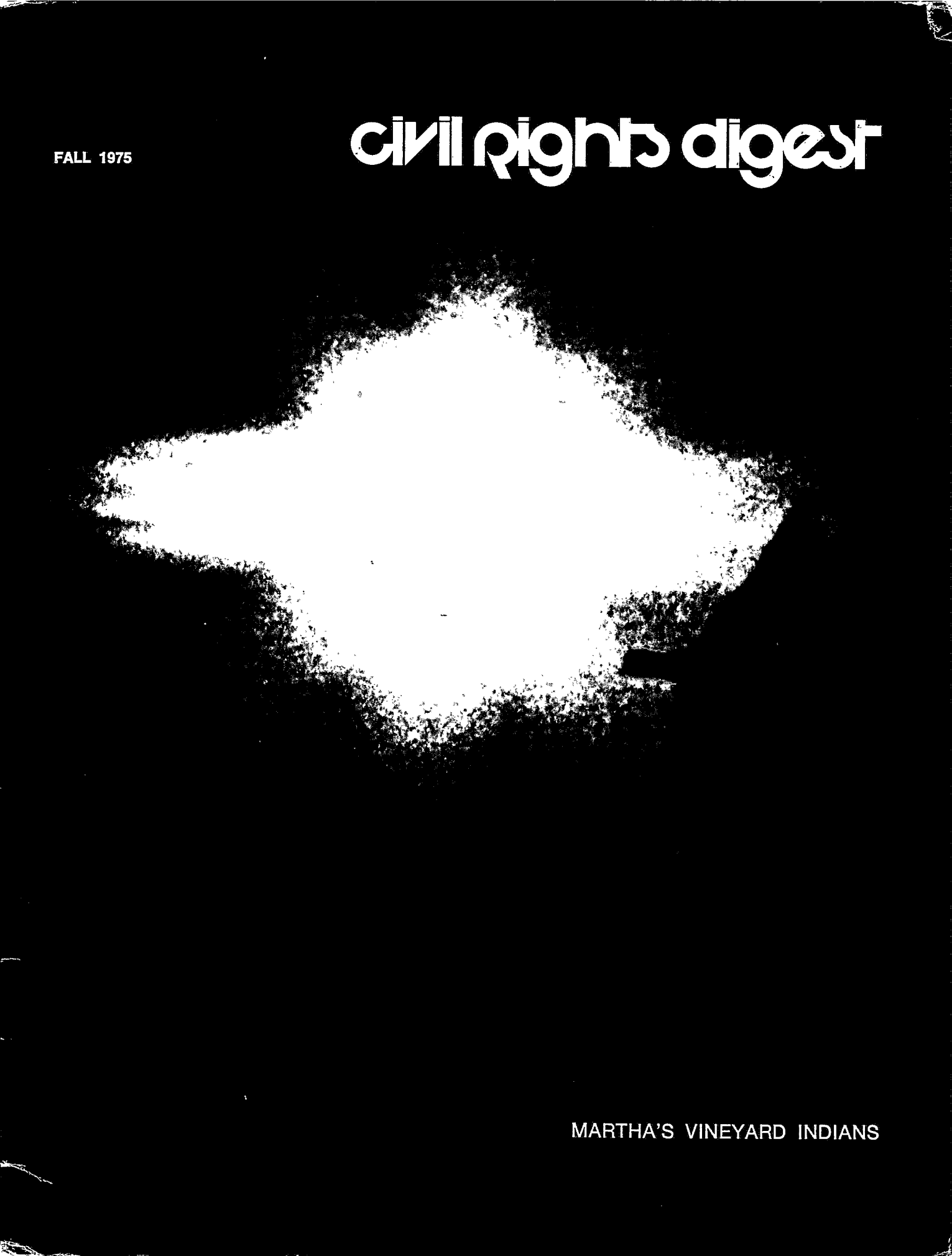
FALL 1975

civil rights digest



MARTHA'S VINEYARD INDIANS

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IN THIS ISSUE . . . we offer a potpourri of civil rights topics.

The problems facing unrecognized Eastern Indians are many and varied. Dianne Dumanoski, a staff writer for the weekly newspaper *The Boston Phoenix,* explores the unique situation of the Gay Head Indians on Martha's Vineyard. Once dominant in the town they live in, their ancestral lands have been surrounded by summer homes on the fashionable vacation island off Cape Cod.

An update on International Women's Year is provided by Peggy Simpson, who details the work of the U.S. IWY National Commission's committees in their followup on the World Plan of Action adopted at the Mexico City IWY conference sponsored by the United Nations. The possibilities for new unity among the world's women are also examined.

Richard Shapiro outlines the problems of racism in the community mental health field and includes guideposts for evaluation and change of local programs. He concludes by noting that racism remains "the number one public health problem facing America today."

The sex inequality in the structure of most pension plans is analyzed by Barbara Bergmann in a short but succinct article, which points out that the time when women could be classified as a group according to the "average woman" has disappeared. Pension benefits, like other aspects of employment, must be offered to men and women on an equal basis.

The various forms of housing discrimination suffered by those of Spanish origin are noted by witnesses at hearings held last year by the Department of Housing and Urban Development. Excerpts from remarks by public officials, representatives of private organizations, and ordinary citizens point out the problems and offer some solutions.

For more copies of the *Digest* or inclusion on our free mailing list, please write to the Editor, *Civil Rights Digest,* U.S. Commission on Civil Rights, Washington, D.C. 20425.

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

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- Study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice;
- Appraise Federal laws and policies with respect to the denial of equal protection of the laws because of race, color, religion, sex, or national origin, or in the administration of justice;
- Serve as a national clearinghouse for information concerning denials of equal protection of the laws because of race, color, religion, sex, or national origin; and
- Submit reports, findings, and recommendations to the President and Congress.

BATTLING TO REGAIN A LOST PAST

MARTHA'S VINEYARD INDIANS WANT THEIR LAND BACK

By Dianne Dumanoski

"These lands are one of the few remaining tangible ties to the past and are the link for the future of the children."
—Statement of the Wampanoag Tribal Council of Gay Head

The land was, of course, all theirs in the beginning, before an English explorer named their island Martha's Vineyard for his daughter.

Now the Gay Head Indians, a branch of the nearly extinct Wampanoag tribe which met the Pilgrims 355 years ago, want some of it back. They claim 230 acres they consider tribal lands that were taken illegally over a hundred years ago, when the Indian district at the western tip of Martha's Vineyard was incorporated into a town. These lands include the famous clay cliffs of Gay Head—one of the island's biggest tourist attractions—Herring Creek, and a large tract of wild cranberry bogs.

That they want the land back is not at all surprising. The astonishing thing is that the Indians actually have a chance of recovering it from the present owner, the town of Gay Head. Unlike their Western cousins, this tribe has more than a moral claim; it might have a solid legal claim to title as well. Last August, the Wampanoag Tribal Council of Gay Head won the first round of the fight to regain title when Federal District Court Judge W. Arthur Garrity refused to dismiss their suit as the town had requested.

The issue is not, however, a classic case of 19th-century crimes against the Indians. Inhabiting a small corner of what was then an out-of-the-way and isolated off-shore island, the Gay Head Indians were never literally pushed off the land they are now claiming—unlike Western tribes which stood in the path of the bulldozer of Manifest

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Dianne Dumanoski is a reporter for The Boston Phoenix. *This story is reprinted with permission from the* Phoenix *(August 26, 1975) Volume IV, Number 34.*

Destiny. This court case grows, rather, out of the unique history of Gay Head and the 20th-century pressures it now faces—and, in a larger sense, out of the climate of the times. A new spirit is abroad which was first articulated by the Indians who reclaimed Alcatraz Island in 1969: "If we are going to succeed, we must hold on to our old ways." This spirit has fostered a revival of Indian culture in Gay Head, where a strong Indian identity has persisted despite three centuries of Christianity and the white man. The Gay Head suit is but one of many efforts by Native Americans across the country to regain tribal lands and to rediscover the traditional Indian way of life.

The Puritan Legacy

"If you think Puritanism was bad on white people, it was *twice* as bad on the Indian!" So says Joan Gentry, a tough, articulate, irreverent 25-year-old who has been a major force in Gay Head's Indian renaissance. With the help of Federal funds, the Indian cultural program she directs is acquainting the island children of Wampanoag descent with the almost forgotten traditions and customs of their people, much of which was lost in the 17th century.

Any Indian that converted, Gentry explains, was forced to live as whites did, and many of the island people converted early. These "praying Indians" moved away from their tribal settlements to a village called Christiantown, where they were required to cut their hair and to stop speaking their native tongue. It is one of Gentry's dreams to hire a linguist to help reconstruct this now-lost language.

Gay Headers, or Pawkunocketts as they then called themselves, were one of four Indian bands on the island, and the last to adopt the white man's religion. For some reason, when they did convert, instead of going to Christiantown, they remained in Gay Head, which later became an Indian reservation and remained so until 1860. During the following decade, it was an Indian district, and finally became a town in 1870.

It was during the incorporation of the town that the tribal council contends the Indians illegally lost their land. At this time, land which they say had been Indian property became the property of the town. It didn't seem to make much difference then, however, because all 300 residents were Indian and the lands continued to be used as always—by all the people.

Today, Joan Gentry says, "Gay Head is no longer an Indian town. I hate to say it, but it's so." Since 1870, the population has declined to fewer than 100 people who claim Indian descent, and they are out-numbered by the wealthy Bostonians and New Yorkers who have sought the beautiful rolling land of Gay Head for their summer homes. Though native Gay Headers still make up most of the year-round population and control town government, the tribal council feels it is no longer safe to assume that town interests and Indian interests are synonymous.

What brought this all home and led to the formation of the tribal council in 1972 was a series of threats to continued Indian control of these lands.

First, Gentry says, there was talk of a tennis court among some of the summer people, who, she says, were eyeing the common lands as a possible site. Next, a conservation group wanted to buy the lands and protect them. And finally came the Kennedy Islands Trust Bill, another protection proposal, and the specter of Federal control. (The tribal council has since made its peace with a redrafted Kennedy bill and now supports it.)

"The Indians always thought this land was for the Indians," says Gentry. When this assumption was questioned, all the Indian families of Gay Head met and formed the Wampanoag Tribal Council, which made the tribal lands its first order of business.

Gay Head Traditions

The quest for tradition has not been an enthusiasm only of the young. For Wenonah Silva, a tribal council member in her 50s, the court suit to regain the lands holds great personal significance. On a singularly clear and brilliant August afternoon she toured the disputed lands with the *Phoenix* and shared personal memories and family anecdotes relating to them and to Gay Head's Indian past.

"I remember my mother taking out my birth certificate," she reminisced, "and pointing to the place where it said I was an Indian. She said it was very important for me to remember. But back then, you know, the white culture was thought to be more important. Sometimes, of course, I felt very proud when I heard stories of how brave and proud and honest the Indians were . . . ." She paused for a moment. "But I can also remember feeling funny and being embarrassed by it."

Wenonah, her given name (which means first-born daughter in the Indian language of her ancestors), was her mother's proud denial of what must have often seemed the inevitable. So much of the Wampanoag heritage had been lost already—the language, dress, customs, religion lost irretrievably. Silva's great-grandmother, an old pipe-smoking woman named Biah Diamond, had been the last to speak their Algonquin tongue. Her father, who had shipped out of New Bedford on the whaleship "Josephine," was the last living whaler on the Vineyard, ending a whaling tradition that extended way back, beyond even the times of Tashtego, the Gay Head Indian harpooner in *Moby Dick*. In her mother, Nanetta Madison's lifetime, it had seemed that even in Gay Head, an Indian community for centuries, the few remaining fragments of the past would slip away.

For Silva's mother, nothing was more a part of her fiercely held Indian identity than the annual pilgrimage to the cranberry lands —a low rolling bog area near Menemsha Pond. Here the wild cranberries grew and here, in the beginning of October for generations beyond memory, the Indians of Martha's Vineyard gathered to pick cranberries and to feast and dance. Even after the conversion of the Indians, the spirit of Cranberry Day remained Indian. When most of the communally held Indian land was divided into private property in 1870—in the process of making the Indian district a town—Gay Headers resisted such division of the cranberry lands, Herring Creek, and the now famous clay cliffs. So, these three areas became town land to be used by all in the old Indian way.

"When my mother was young, all the Indian people would come in their oxcarts on the first Tuesday of October." Each family picked what it needed for its own use and for trade, for before the days of Ocean Spray, the wild cranberries were one of the Gay Headers' cash crops bartered in West Tisbury for flour, sugar, cornmeal and other winter provisions. After the picking, feasting and dancing continued into the night. It was not only the oldest tradition in Gay Head, but the town's biggest holiday.

Silva herself recalls a very different Cranberry Day, one about a dozen years ago. Her mother and aunt had insisted they go, so the grandchildren were kept home from school, a lunch was packed, and the family set off for the cranberry lands. "There's the spot where we ate lunch." Silva pointed to a sandy hollow sheltered from the wind. Afterwards, they picked berries which were later baked into cranberry bread. It must have been a poignant, melancholy day for the older women, who could remember the high-spirited harvest festivals of their youth. That year the family picked wild cranberries and feasted alone.

Through the Indian cultural program, Cranberry Day has been rescued from oblivion. The bogs, Joan Gentry says, are not what they once were because of the hurricane of 1938, which damaged them with sand and salt water. Gentry has, as you might expect, dreams for changing this too. Perhaps some sort of Federal grant could assist in restoration work.

But on the first Tuesday of last October, all of this reportedly mattered little to the Indian children who arrived—not in oxcarts, however, but in a bus. There were still cranberries to be picked and time left for some messing around and a picnic lunch. That afternoon, the children toured the Indian landmarks around Gay Head, including Toad Rock, which is said to have once been the pet of Moshup, a legendary Wampanoag leader. Before the days of mail or telephone, Gay Headers say, Toad Rock served as the local

post office. If you wanted to leave a message for anyone else in the community, you stuffed it in the hole in the rock known as the toad's eye.

Through this cultural program and the efforts of the tribal council, the long history of loss has been reversed. Thanks to a special grant to help Native Americans research their history, Wenonah Silva traveled to Washington last March to seek more of the tribe's forgotten past in Federal achives. The old Indian burial ground has been returned to the council by a private landowner, Dr. Alvin Strock. In summer on the Gay Head cliffs, another site contested in the law suit, the adults and children join to reenact the Wampanoag legends of Martha's Vineyard. First performed in 1940 to raise scholarship money for Gay Head students, and revived off and on since then, the dramatically staged pageant has become an annual event.

The Legal Case

"These claims are very significant, because the Indians are *entitled* to the return of the land . . . . They are entitled to it under the rules of the game." Attorney Thomas Tureen of the foundation-funded Native American Rights Fund has fought legal battles for Indian tribes all over the East, for tribes which, like the Gay Head Wampanoags, do not live on Federal Indian reservations. It is in the East, Tureen says, where the most interesting things have been happening. Under the country's own laws, he maintains, Indians not only in Gay Head, but in several other New England States, have had their land taken illegally, and they have every right to get it back.

The Gay Head case and several similar ones hinge on a Federal law passed in 1790 by the very first Congress of the United States, the Indian Trade and Intercourse Act. This law, which established the framework for relations between Indians and non-Indians, stated explicitly that no Indian land may be transferred without Federal approval. During the 19th century in the West, as Dee Brown chronicled in *Bury My Heart at Wounded Knee,* the Federal Government did sanction all of the tragic Indian removals.

In the East it was a different story. For one thing, there was a good deal of confusion, over the years, about whether this law applied to the original 13 States as well as to the Western territories. Since the 13 States had been settled for 150 years before the Revolution, there weren't great tracts of land left in Indian hands except in Maine. There was some land, however, and it was transferred without Federal approval. The legality of such transfers remained unclear until last year, when the Supreme Court finally settled the question. Yes, the decision said, the Indian Trade and Intercourse Act applies equally to all States.

For Eastern Indians, the dream of reclaiming tribal lands suddenly became a possibility, though the fight in the courts promises to be a long one. In a suit brought by the Passamaquoddy tribe of Maine to recover money damages for illegally taken tribal land, the Federal Government came up with another reason why this law should not apply to Eastern Indians. The Passamaquoddys, the government argued, were not eligible for this protection because they were not a federally "recognized" tribe. But Tureen's claim that the law applies to *all* Indians prevailed in Maine's Federal District Court. If the decision successfully weathers appeals, it will be of tremendous significance to the Wampanoags of Gay Head and to other Eastern tribes. Like most Eastern Indians, the Gay Headers are also "unrecognized," meaning they have not 1) signed a peace treaty with the Federal Government (an impossibility since they never had a war), 2) been mentioned in a Federal law, or 3) had a history of dealings with the Bureau of Indian Affairs.

In the Gay Head suit, Tureen is arguing that the transfer of Indian lands during the incorporation of the town was illegal because it took place without Federal approval. Whether Judge Garrity will consider town incorporation as an illegal transfer under the law is one of the questions of the case.

Many Gay Headers are angry that the town is even putting up a defense, since the town's selectmen are of Indian descent and have reportedly participated in the tribal council. The board chairman, Leonard Vanderhoop, had no comment about why the town is resisting, and there isn't even agreement on the issue among the selectmen. Selectman Walter Manning says he can't figure out why the town has hired a lawyer to fight the tribal council. In his view, the selectmen have nothing to lose if the tribal council takes over the land.

But what has really enraged Manning and other Gay Headers is the nature of the defense mounted by Douglas Randall, the special attorney hired by the town, who is questioning whether Gay Headers constitute a legitimate Indian nation. There's no doubt, he says, that many people in Gay Head have Indian blood, but they have intermarried and assimilated to the point where it is impossible to call them a tribe or a nation. Randall also argues that the Indians had sold off all their land to white settlers long before the in-

corporation of the town.

"I told him he had a hell of a nerve," reports Manning of an encounter with Randall. "I don't know where he got such a notion." Dr. Helen Attaquin, a Gay Head Indian who still bears a Wampanoag family name, counters Randall's contention with a simple "It's not true." She says the Gay Head Indians are certainly recognized as Indians by other Indians. Dr Attaquin serves as president of the Coalition of Eastern Native Americans, which represents 150,000 people from 53 tribes.

Randall offers some insight into why the other two selectmen have decided to make a defense in this case. "Technically, the Board of Selectmen represent everyone in town, not *just* those of Indian descent. So the fact is they may be personally very sympathetic and willing to give the Indians the land, but being selectmen, they have a duty to represent the best interest of the town."

Randall also says there is a lot more at stake in this suit than 230 acres of land. The incorporation act of 1870 involved many other tracts as well, though the tribal council has limited its suit to only those lands which became town property. If their suit is successful, Randall contends, the title to millions of dollars worth of privately held land in the Vineyard will be brought into doubt.

There is another group in town which also has an interest in the outcome of the suit. The Gay Head Taxpayers' Association represents the approximately 100 families who come to Gay Head for the summer. Stephen Pollan, a lawyer himself and a member of the association's board of trustees, says that, personally, he has no fear that the title to his land will be jeopardized by the outcome of the suit. "If they prove themselves legally a tribe, I'll be very, very happy." What concerns the Taxpayers' Assn. is the use the tribal council will make of the land. "I've heard rumors about an Indian museum or a tribal headquarters," Pollan says. "There's better land for that." The Taxpayers' Assn. wants to see the land remain in its natural state, undeveloped and open to all people. "In essence," he says, "it shouldn't be raped." Publicly and at a meeting with the Taxpayers' Assn., the tribal council has stated that the land will be used as it has been for centuries and not despoiled, so there appears to be no conflict. The Taxpayers' Assn., Pollan says, is waiting, however, for written assurance, which the council has promised.

Joan Gentry finds the request for promises in writing positively maddening. "Did they consult us when they built their A-frames? These guys came in and bought property and did anything they damn well pleased. Now they want *us* to ask *them* what to do!"

For the Indians of Gay Head, there are other stakes in this suit besides the emotional and symbolic significance of regaining the land. Success in court could help open the door to Federal Indian funds, which have been denied Gay Headers and most other Eastern tribes. Which brings us back to the word "recognized." Since they are not "recognized," these Eastern Indians have been left out of most Federal Indian programs, specifically from those run by the Bureau of Indian Affairs. It's been a very handy tactic for holding the line on Federal spending. (Interestingly, the Department of Health, Education, and Welfare, which funds the Gay Head cultural program, makes no such distinction.) And the problem of getting recognized if you aren't already has all the logic of Catch 22. According to the BIA's reasoning, Federal recognition results from having been recognized by the government, and if you haven't already been recognized, then of course you don't have Federal recognition and can't be recognized. Get it? Gradually, however, the Bureau's stand on aid to Eastern tribes is said to be changing, and with tribal land, Tureen feels, the Gay Head Indians will be in a much stronger position to fight for some of those Federal funds.

Joan Gentry sees many ways such money could promote the survival of Gay Head as an Indian community. "Do you realize that the Title IV [cultural] program brought the first honest-to-goodness full-time jobs in Gay Head?" Young Indian families, she says, are often forced to move away to find work. With a Federal grant, Gentry believes Gay Head could work to develop its shell fishing industry to provide some badly needed employment.

The Legends of Moshup

It is almost dark when the voice of Beatrice Gentry (Joan's mother) rings out over the Gay Head cliff. "This is a special day for all Wampanoags. It is the 300th anniversary of the death of Metacomet, who was called King Phillip. He died fighting for his country and for his people. He is America's first Indian patriot .... There have been many changes since then: there are fewer of us and many more outsiders ...."

Far across the water, the horizon dissolves in twilight. A quarter moon is rising to cast its pale light. On the grass on the head of the cliffs, a crowd of about 200 has gathered to witness a pageant called "Legends of Moshup and his People." Before the performance begins, they are asked to rise for the American Indian Honor Song.

Then the voice of the storyteller

begins to weave the legends and the cast appears suddenly behind the audience. The figures seem to have emerged from the darkness itself, shadowy Indian silhouettes which move, in the flickering torch light, toward the water.

An hour earlier in the town hall, the collection of buckskinned children and adults had given the script its final run-through and a high-spirited chaos had reigned. Along the wall sat the Vikings, the bad guys in this tale, complete with tin-foil horns and ash-can lid shields. "Now, don't mush your horns," one mother was heard to instruct. How was it, a middleaged non-Indian was asked, that he was playing a Viking. "Oh, I've been playing a Viking for 25 years," he replied. "My wife's an Indian."

Now, as they wind their way down the cliffs to a clearing several hundred feet below, they seem more than actors in a town play.

The legends say Gay Head, the land of Acquinnah, was settled by Moshup, a leader of superhuman power and wisdom who sought out the peaceful and abundant island because he was tired of the strife in his homeland. The land gave them berries, especially the prized cranberry; the sea provided the whale, which Moshup hunted to provide food for his 12 daughters and sons. It is the blood of these slaughtered whales, so it's told, that stained the clay cliffs their deep red. Moshup, the wise counselor, solved the problem of a poor maiden without a dowry by emptying his pipe over the Atlantic. The result? An ample dowry, indeed—Nantucket Island. Among the floodlights, the actors pantomime the tale.

But peace and tranquility will not continue for the people of Aquinnah. In a vision, Moshup sees future things which trouble him deeply. There will come a pale-skinned people to Aquinnah, the visions tell him, who will bring the happy life to an end. Enter the Vikings who dance menacingly. (It is believed, in fact, that Norsemen did come to the Vineyard.)

So Moshup calls his childen together, shares his unhappy vision and says he will do something to make sure that the children of Moshup may roam forever free. He will change all who wish into killer whales. And so, as the spotlights die, they go, all but a few, one by one over the cliff and into the welcoming sea. In the darkened clearing are left only Moshup and his wife Squant, two lonely torch-carrying figures who disappear into the dark cliffs.

It is said, the storyteller says, that the sigh of the wind is old Squant singing to her lost children.

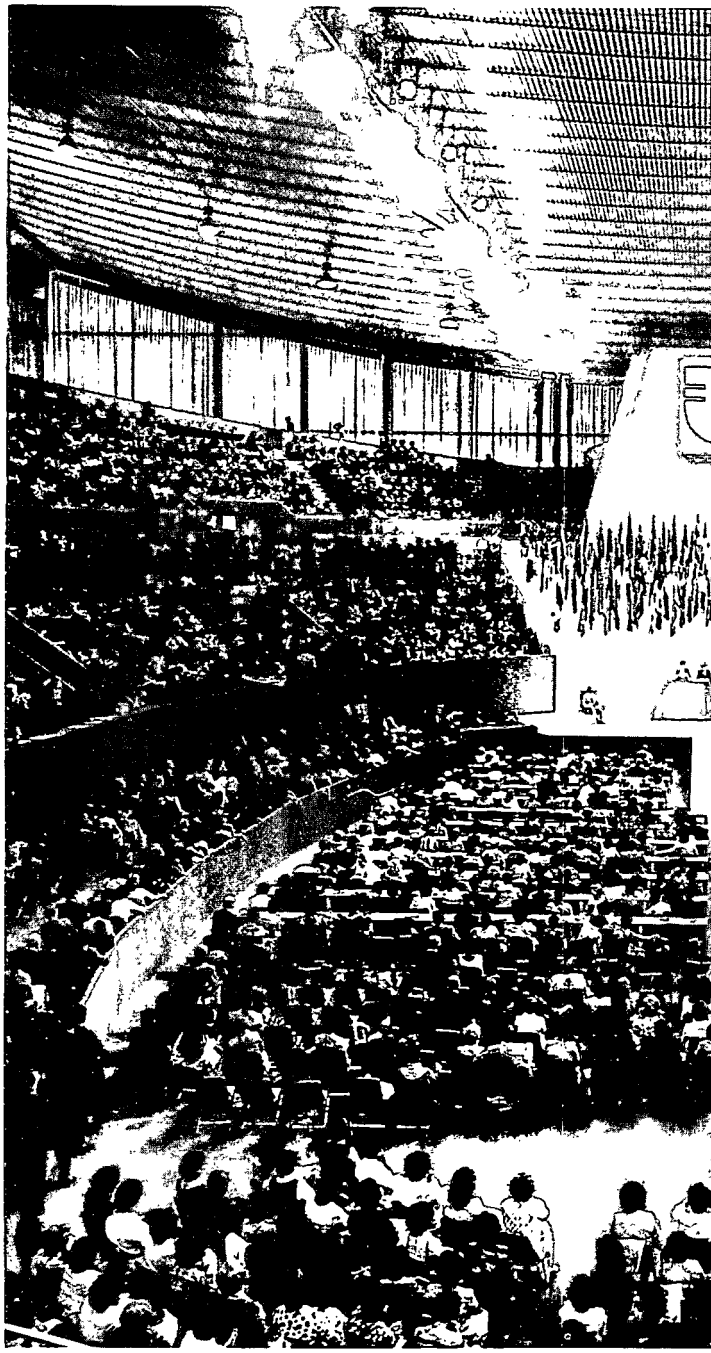
Now all is darkness, save for the faint moonlight on the water and a blinking buoy off to the west. The storyteller's final words float out over the cliffs.

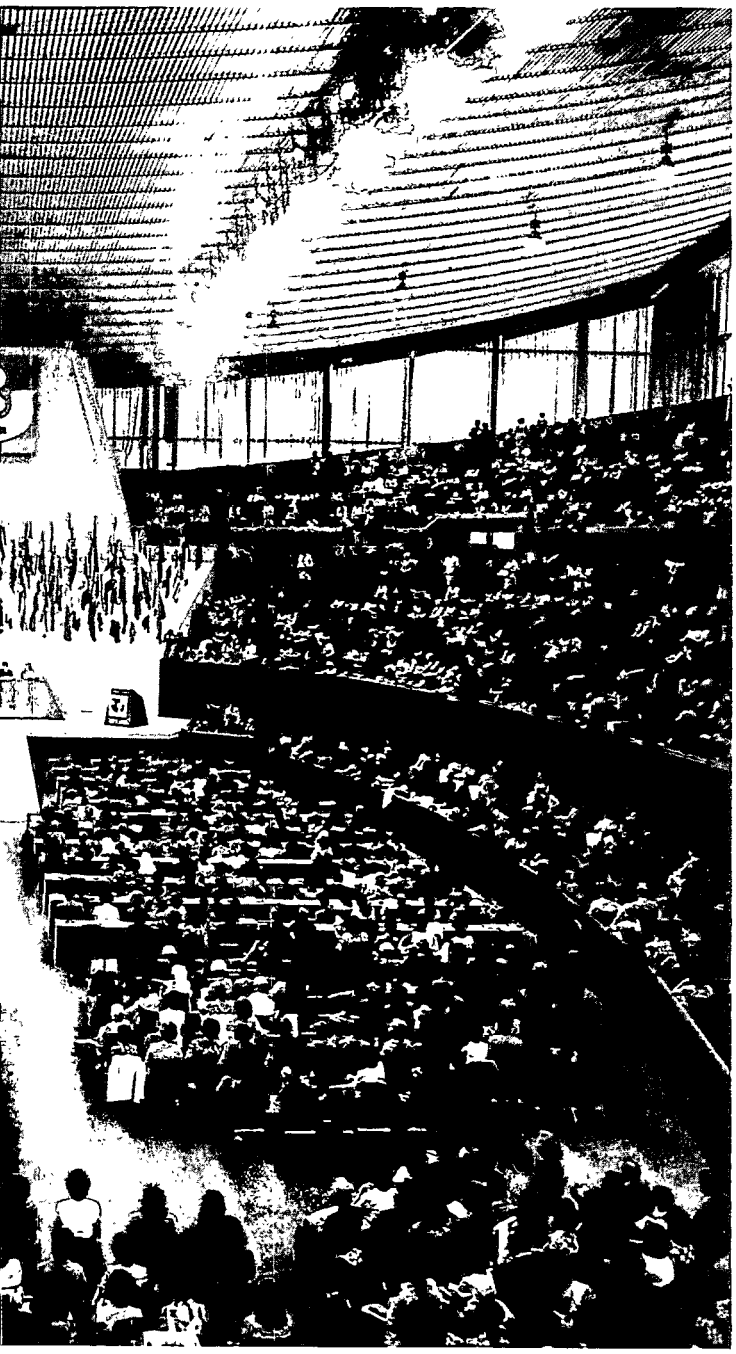
"When legends die, all dreams end. When dreams end, there is no more greatness."

IWY: AN UPDATE

THE IMPACT OF MEXICO CITY

By Peggy Simpson





Delegates to the first International Women's Conference in Mexico called for a total reform of society's customs, laws, and attitudes to enable women to become equal partners with men in shaping the future of the world.

They said it was no longer feasible to ignore the potential of half the world's population when all ideas and energy are needed to help solve the increasingly pressing problems of poverty, starvation, disease, and gross economic inequities. Women, they said, must be incorporated into every level of a country's life.

The United Nations previously had condemned sex discrimination as "incompatible with human dignity and with the welfare of the family and of society." It declared 1975 as International Women's Year with the goal of defining "a society in which women participate in a real and full sense in economic, social, and political life."

Strategies to reach this goal were adopted in Mexico by 1,300 delegates from 133 countries. It was the first meeting of governments on the problems of women and, despite intense political differences, there was impressive unanimity on the urgency to topple the barriers restricting women in every country, rich and poor, and to improve their lives and options.

The delegates produced a 10-year World Plan of Action as a blueprint for governments to follow and recommended that another conference be convened in 5 years to check the progress. A parallel meeting for nongovernmental participants, the Tribune, unexpectedly coalesced into an international unity group of sorts and adopted extensive amendments and additions to the World Plan which the individuals plan to push forth in their own governments.

Amidst the confusion and the confrontations on political controversies such as the Third World condemnation of Israel, there emerged a systematic picture of the universally secondary status of women across the world, in the poorest countries and the most prosperous.

Women comprise 500 million of the world's 800 million illiterates. In many poorer nations, women are fed last and least. They are often taken out of school

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Peggy Simpson is a Capitol Hill reporter for the Washington bureau of Associated Press.

at puberty because of scarce family resources and a priority on boys getting the education money can buy—or because customs dictate that girls should be bartered off in marriage as soon as they are able to bear children. Many of these girls spend the next two or three decades in an unbroken cycle of childbearing and rearing, isolated from the most basic medical help, let alone family-planning counseling or birth control devices.

Universally, women have less access to education and job training than men. They make up only a fraction of the managers of the business and political world. They remain the keepers of the children, increasingly taking on part-time or full-time jobs outside the home, but having mixed luck in persuading their spouses to absorb any of the continuing chores at home.

"One common characteristic of the women in Mexico City was our realization that access to real power—economic power, political power—is a long way away," Jill Ruckelshaus said in a recent speech. "We also realized that there are indeed barriers in women's lives which cross international lines: equal access to education, equal employment opportunities, political participation, health and housing, to name a few.

"In many countries, educational resources are scarce and top priority for schooling goes to boys, not girls. The female illiteracy rate in parts of Africa and Asia is over 80 percent—often double that of the illiteracy rate for men. During the early stages of a country's development, the people who receive the training to become skilled industrial workers are, not surprisingly, those who can read and write. Thus, as nations develop, a vicious cycle keeps the women in lower status positions."

Sexism in Foreign Aid

The whole problem of developmental aid was one of the major concerns in Mexico, especially when it became clear that women in poor countries are not only worse off than the men but that the gap is widening—with the help of aid from the rich countries.

Not only is the average woman less able to qualify for advanced training if she is illiterate, but she has been systematically passed over even for the training for which she would naturally qualify because of western-world stereotypes about the roles of women and men. Western donors have assumed that men are—or should be—the leaders and they recruit men for their skills-upgrading courses.

Thus, in Africa, approximately 70 per cent of agricultural workers are not recruited for sophisticated farming classes because they are women. This has global implications in such areas as food production, for instance, because economists predict widespread starvation ahead unless crops are expanded greatly. Yet the agricultural techniques to facilitate this are not only going to the people who can't or won't use them, they also may set a pattern so discouraging to women that they may shuck the farm life entirely and seek a better one in the cities. This is occurring already in many poor countries, and food production is stagnant or declining.

U.S. aid agencies are already reforming their practices, under a mandate from two amendments attached to foreign aid bills by Sen. Charles Percy, R-Ill., which requires that the impact on women be considered in every training program sponsored overseas.

IWY was expected to intensify the scrutiny of women's groups and Congress of these programs. After Mexico, for instance, the president of the League of Women Voters, Ruth Clusen, testified before Congress that the Percy amendments "are not a political gesture to feminists but underline the growing awareness among donor and recipient nations of the importance of women in the development process and the effects that economic development and foreign assistance can have on the actual and potential roles and status of women." She said that as a U.S. delegate to Mexico she realized with more clarity that women in most countries will have better lives only through massive economic gains in their countries.

"While American women may speak of the need to enter the corporate board rooms and to achieve social equality, their sisters in developing countries see women's issues with different eyes," she said. "So difficult is their economic plight that their needs focus on rock-bottom basics such as growing enough food or walking miles each day for water just to survive. . . ."

Nira Long, a lawyer who heads a special AID office to implement the Percy amendments, said women will be incorporated into their development plans when donors and the recipient nations realize this is mandatory to reach their goals of, say, increasing the food supply. "I'm not sure we've totally convinced men that women are equals and should be treated as such but I think we've convinced them that women are vital human resources," she said. "It's dehumanizing but it works."

Changes in the way development money is apportioned was one of the most dramatically and widely accepted mandates of Mexico. But dozens of other priority areas were spelled out in the World Plan of Action.

It called access to education and training a basic human right and said social and economic structures

should be altered to make this a reality; it called for creation of national commissions or women's bureaus with "adequate staff and budget" to accelerate the pace of opening up options for women; it said nations should enact constitutional and legislative guarantees of equality; it said women should have an equal chance with men to represent their countries at all international forums; it called for elimination of bias against women in national social security schemes; and it said every government should lay out its own goals and timetables for fully integrating women into national life.

Here are excerpts from the World Plan of Action:

—The achievement of equality between men and women implies that they should have equal rights, opportunities, and responsibilities to enable them to develop their talents and capabilities for their own personal fulfillment and the benefit of society. . . .A reassessment of the functions and roles traditionally allotted to each sex within the family and the community at large is essential. The necessity of a change in the traditional role of men as well as of women must be recognized.

—Individuals and couples have the right freely and responsibly to determine the number and spacing of their children and to have the information and the means to do so. The exercise of this right is basic to the attainment of any real equality between the sexes, and without its achievement women are disadvantaged in their attempt to benefit from other reforms.

—Girls and boys alike should be encouraged through vocational and career guidance programs to choose a career according to their real aptitudes and abilities rather than on the basis of deeply ingrained sex stereotypes. They should also be made aware of the education and training required to take full advantage of the employment opportunities available.

—Trade unions should adopt policies to increase the participation of women in the work force at every level, including the higher echelons. They should have special programs to promote equality of opportunity for jobs and training for women workers and leadership training for women.

—In the total development process, the role of women along with men needs to be considered in terms of their contribution to the family as well as to society and the national economy. Higher status for this role in the home—as a parent, spouse and homemaker—can only enhance the personal dignity of a man and a woman. Household activities that are necessary for family life have generally been perceived as having a low economic and social prestige. All societies should, however, place a higher value on the activities if they wish the family group to be maintained and to fulfill its basic functions of the procreation and education of children.

—Textbooks and other teaching materials should be reevaluated and, where necessary, rewritten to ensure that they reflect an image of women in positive and participatory roles in society.

—A major obstacle in improving the status of women lies in public attitudes and values regarding women's role in society. The mass communications media have great potential as a vehicle for social change and could exercise a significant influence in helping to remove prejudices and stereotypes, accelerating the acceptance of women's new and expanding roles in society. . . . At the present time, the media tend to reinforce traditional attitudes, often portraying an image of women that is degrading and humiliating, and fail to reflect the changing roles of the sexes. . . .

What Happens Next?

The rhetoric can be translated into action only by individual nations. In the United States, the "year of the woman" has generated pressure for change at many crucial points on the State and national levels, to say nothing of the probable pressure for accomodations within many homes.

A proposal to hold a National Women's Conference after the 1976 elections has been passed by Congress, and there are proposals to create a permanent structure to solidify the gains women have made and coordinate efforts to get more; to press harder for the Equal Rights Amendment to extend constitutional guarantees of equality to women for the first time; and to reform such agencies as the Social Security system which is premised upon the now-outdated assumption that the man is the breadwinner and the woman is the dependent. There is an additional force for change: the National Commission on Observance of International Women's Year, headed by Jill Ruckelshaus, with 35 private members and 4 congressional ones.

A dozen IWY committees are working on such areas as a State-by-State guide to the risks and rights of homemakers, spotting lapses in enforcing the strong antidiscrimination laws on the books, and exploring the unique situations of certain women such as Indians who have not only State and Federal laws to contend with but tribal laws and customs as well. In addition to the commission members, 100 other persons have been added to the dozen committees.

One of the potentially most significant initiatives taken by the commission is a questionnaire which was sent in late August to the chief of every Federal department and agency, asking for an assessment of the programs on women.

The so-called "impact statement" is patterned after the Percy amendments to the foreign aid program, but the IWY request carries no clout, such as a funds cutoff or suspension of a sexist program should the impact on women be found to be negligible or negative. As Ruckelshaus said, however, departments and agencies have never even had to focus their thoughts on what the impact on women is and the consequence has often been detrimental to women. "I hope that doing this will make the assessment of the impact on women part of a regular, permanent evaluative process when new programs are developed and current ones are evaluated."

The White House backs the questionnaire idea, according to presidential assistant Patricia Lindh. When James Lynn, director of the President's Office of Management and Budget, reviewed the plans at an IWY interdepartmental task force meeting, he cautioned the IWY staff about anticipating the return of "any polished analysis" but said "if it does perform the function you're talking about—to get people thinking about the programmatic impact on women—

it will have been a success."

The Ruckelshaus Commission has asked for an extension of its mandate from next spring through next June. If a bill by Rep. Bella Abzug, D-N.Y., and 14 other Congresswomen is enacted, the commission will remain intact through 1976 to serve as the staff for the National Women's Conference.

The Abzug bill would provide $10 million, not only for the national conference but for a series of State and regional meetings preceding it. Abzug scoffs at critics who say there won't be enough time or staff to do this. She said grass roots input is essential to guarantee that any agreement on a national plan to bring equality to women has come from the women most affected, rather than from the top down as is the case in most national conferences.

"All this should probably have taken place leading into IWY but what better than to have this during the

bicentennial, as an American expression on the status of women?" she asks. "It will be a statement of what we have accomplished and have yet to accomplish."

Changing Institutions

Abzug also chairs an IWY Commission group which will recommend what permanent structure is needed to consolidate women's gains and monitor progress on others. By late September, however, she had not convened the committee and one of her members, Senator Percy, got the jump on everyone by proposing creation of a "national center for women."

Percy questioned the effectiveness of the eight Federal agencies which now enforce antibias laws and the 10 major Federal agencies which do research on and provide data about women's rights. He said a new structure may be needed. It could be "part of an existing government body such as the Civil Rights Commission," Percy said, or a "division of a cabinet department such as Labor. Or it could be an independent commissioner or a separate government agency."

He said it could evaluate Federal programs from a woman's point of view, accept and refer to other agencies the sex-bias complaints, be a clearinghouse for all data on women's rights, and devise a national program to implement the IWY Plan of Action.

Many recommendations of the World Plan have already been followed in this country. There are more basic laws, and machinery to implement them, than anywhere else in the world. There is increasingly more guaranteed access to education and training. Abortion rights are being nailed down tighter in court decisions and the 1974 defeats of the leading antiabortion Congressmen helped puncture the pressure for a constitutional amendment to outlaw abortions.

But many barriers still remain. The drive to ratify the ERA by the Nation's 200th birthday, let alone by the deadline of early 1979, is faltering and both national political parties appear jittery of it: the Republicans ignored petitions from feminists and chose as their 1976 convention site a State which has refused to ratify the ERA, Missouri; and during the Democrats' recent fund-raising telethon Party Chairman Robert Strauss followed actor Alan Alda's strong pitch for the ERA with a waffling statement that there were two sides to the argument.

There are also problems in changing the Social Security system, although many persons agree with Tish Sommers of the National Organization for Women's Task Force on Older Women who called Social Security a key example of institutionalized sexism. Starting over with a new system would seem easier than modifying the existing one—but nobody wants to risk that.

Ms. Sommers said the system penalizes the very women society encourages to stay home and be a full-time child-rearer and supporter of a spouse's career. With divorce occurring in epidemic proportions, she said, these homemakers are finding themselves "the discarded segment of our population" without the social cushions of unemployment benefits, without access to any insurance at all in many cases, and without skills to find a job. She said many women are considered too old by potential employers to start a career but too young to retire and get benefits under the law. In fact, if the marriage survived less than 20 years, the women isn't even eligible for retirement and health benefits on her former husband's account. And since "homemaking" isn't considered an occupation, she hasn't collected any credit toward benefits on her own.

Dozens of bills are pending in Congress to change the 20-year-rule on benefits for divorced women, provide benefits for homemakers based on a self-employment concept, and discount from the average lifetime earnings of a worker the years she or he spent at home rearing children. Right now, those years spent in child-rearing count zero on the lifetime earnings scale from which retirement benefits are averaged—which is yet another factor in why older women are the most single impoverished group in the country.

"Just as Social Security helps to extend institutionalized racism for blacks into old age, and thereby almost certainly mandates poverty for all but a small number," Ms. Sommers testified recently, "so too it reinforces the economic impact of sexism and punishes women for the roles society most approves. . . . In no time of life is the payoff of women's traditional role more clearly revealed than in old age. No wonder we feminists are beginning to reach a whole new segment of the population who never understood what the 'women-libbers' were talking about."

Women as Workers

Another area ripe for change is that of categories in the overall work world, in which jobs such as secretary are classified at low pay and are almost always occupied by women while those such as bookkeeper in the same setting pay higher and are occupied usually by men. In other words, says Joan Goodin, the only union member on the U.S. delegation to Mexico, the goal is not so much equal pay for equal work but equal pay for work of equal value. She said the goal is a total reevaluation of the comparative value of work. The top union leadership, as expected, does not have this as a high priority but the newly organized Coalition of Labor Union Women does—and they'll push for it.

Ms. Goodin, assistant director of the international affairs office of the Brotherhood of Railway and Airlines Clerks, says women are the least organized group of workers in the country today and represent the most potential for growth of union strength. She said the top union leaders have to recognize this—and change their priorities to include women's issues, as they did last year when they reversed their opposition to the ERA and endorsed it.

"IWY has made the whole leadership issue visible," Ms. Goodin said. "We now need to insure that labor women are included in union seminars and training courses so they will feel free to run for office. Women have never felt prepared to do so. We can't demand positions on executive boards unless women are agreeable to running—and in order to do that they have to beef up their knowledge and skills and training."

She was frustrated in her first attempt to make overtures to minority women workers about the advantages of linking up with other workers—she discovered there were no separate figures kept for black women or Latino women or Asian women, only for workers as a whole in that minority group. She's trying further.

But her unhappiness at the paucity of data about women points up a basic problem. The World Plan said that "a major difficulty in assessing the economic contribution of women at the present time is lack of, or incomplete, data and indicators to measure their situation."

IWY Committees

The Ruckelshaus Commission is trying to attack this barrier in some specific areas. Each governor, for instance, is being asked to say how many women have been among the hundreds of appointees to regulatory bodies, college boards, and advisory and policy commissions. The commission, with the stature of a White House group, hopes to make more headway than others have in the past.

The "impact statement" may turn up more first-time data. But many figures have never been collected and no money or thinking has been set aside to accomplish this. The core statistics on women have come, almost entirely, from the Labor Department's Women's Bureau during its 55 years—and these have been confined by necessity to the status of working women in most cases.

An IWY committee on homemakers has won a commitment from the Census Bureau to target women who have been divorced 5 years or more in an upcoming survey of 150,000 households, to permit repeat visits to ask about alimony and child care payments and the problems in collecting them. This committee, chaired by former Rep. Martha Griffiths of Michigan, is the one preparing the State-by-State brochure on homemakers' legal rights or lack of them. It will examine State inheritance laws, for instance, which are coming under fire from Midwestern farm women who now realize their usually enormous contribution to the family business isn't recognized by law. They pay huge inheritance taxes if their husband dies because the law assumes that the man paid for the property, equipment, produce, and labor and that his wife contributed nothing in an economic sense—which is the exact opposite of the reality on most family

farms, where the wife often is a partner in the fields as well as business manager, albeit usually getting no salary on paper. A commission staffer said it is "another evidence of the legal assumption that a woman who works at home has made no economic contribution and that her worth is totally based on her husband's work."

Other IWY committees are collecting statistics on the status of women in all foreign service agencies, on the extent of bias against women in the arts and humanities, on the frequency with which women are turned down for insurance, on the lack of enforcement of abortion rights laws, and on the effect of negative media stereotyping of women.

Dr. Irene Tinker, who directed a notable preconference seminar in Mexico for nearly 100 women from underdeveloped countries, said more basic data is also going to be collected worldwide on women. She and other U.S. women helped set up a research center at Wellesley, Mass., which will open an international affairs division next year; there is a research center in Stockholm and one in the Philippines and an English woman is starting one geared toward data-collecting in underdeveloped countries. The U.N. may ultimately help fund one in Iran, in conjunction with funds to be contributed for that purpose by the sister of the Shah.

Broadening The Movement

There is one other aspect of IWY which shouldn't be ignored: the impact on the overall women's movement in the United States, which has been portrayed as being too white and middle-class.

The Mexico City confrontations between Chicanas and blacks with such white-establishment movement figures as Betty Friedan probably illustrated decisively that no one person can "lead" this movement. In effect, the minorities were saying that they respected Friedan as a catalyst of the movement but they didn't want her speaking, now, for them or their colleagues. And they also made plain, once again, that for them the movement had to embrace the fight against racism and repression in all forms, not just sexism.

"The women's movement cannot be the exclusive domain of some people," said Carmen Maymi, an IWY delegate and director of the Women's Bureau. She said many whites haven't looked beyond their home fronts to recognize the minority women who have been leaders all along—but they're being forced to, now. She said she is also advising minority women to put more pressure on the mainstream of the movement, telling them that "you cannot be afraid to go up to this other (white) leadership which has always held the power and force them into recognizing your views and concerns, and having them include your needs into their agenda."

Josephine Hulett, an organizer with the National Committee on Household Employment, said "I think women are beginning to realize we're all in the same boat. . . . We're only one man away from welfare, whether we're in the kitchen or in homes. So many of us think we've made it and we haven't. Many of us who have been out of the labor market for the last 20 years or 15 years find that our skills are not important—and we find out that we do need each other. And let it be said loud and clear that no woman can be free until all are free."

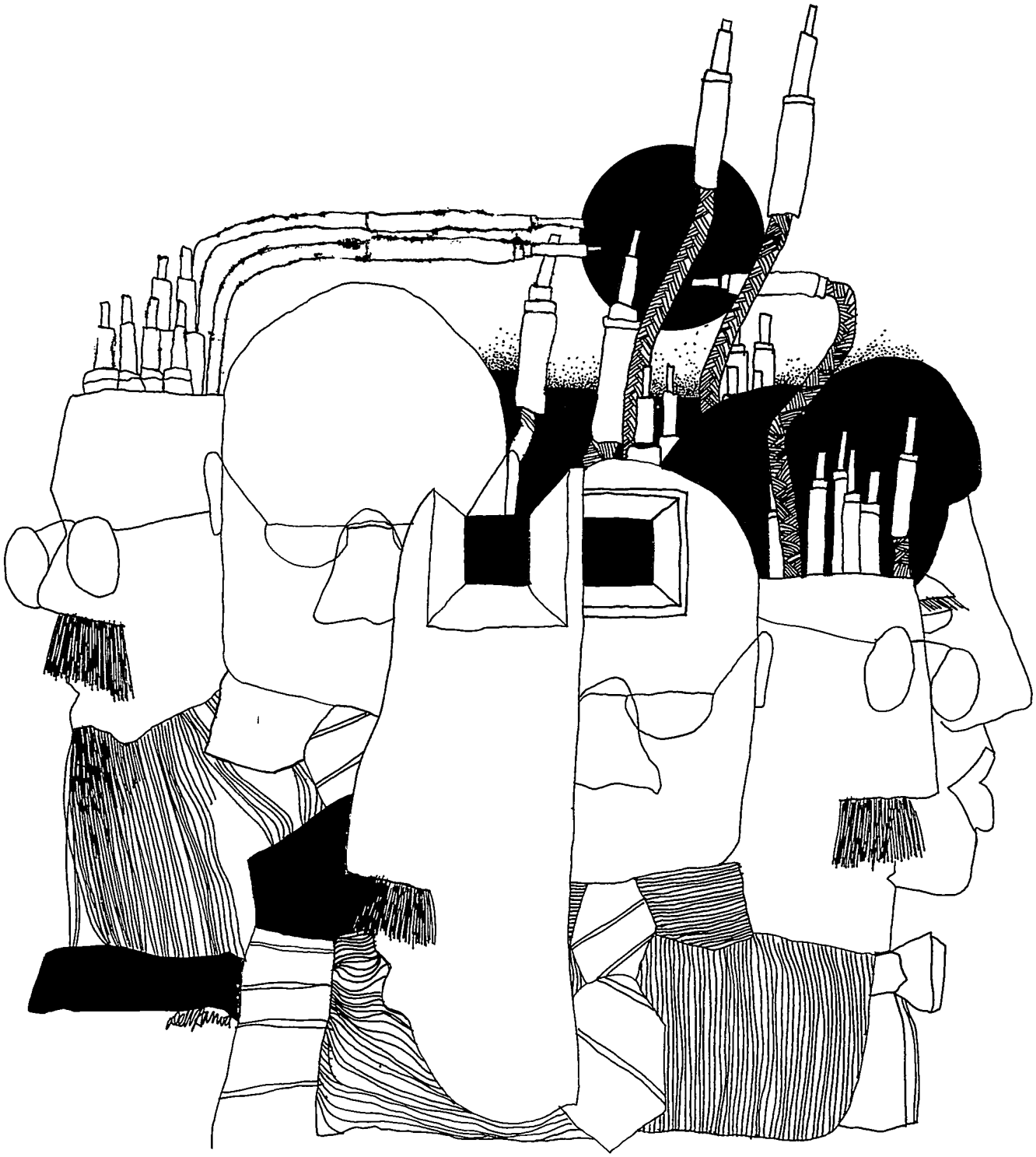
Dorothy Height, director of the National Council of Negro Women, hopes that many white women will finally realize the need to join forces with minority women in fighting racism as well as sexism. She directed a project subsidized by AID to bring 26 women from underdeveloped countries to Mexico, to meet with them and hundreds of others daily to discuss the options of self-help projects similar to those that the National Council has sponsored in this country—and then to take the core group of women to see those projects in Mississippi and Alabama.

Out of that experience has emerged an international network of contacts between women here and abroad, she said, which can enable the skills of women here to be used to meet needs identified by women in poor countries.

The Council has a request, for instance, from women in the Caribbean to help them learn how to increase their family's nutrition while still using tropical food. The local groups would furnish the economists and nutritionists, the National Council the specialists in stimulating and perpetuating grass roots self-help activities. In many countries in Africa, she noted, women produce the elaborate arts and crafts but once these become income-producers the men take over as managers. These women want to learn how to be their own managers and organizers, she said.

Height said she thought women through the U.S. could join in such international exchanges of skills, if they have really absorbed the lessons of Mexico.

Arvonne Fraser, founder of the Women's Equity Action League, said she thinks this very area will be one of the most fruitful for women in this country to take on. "I sense a real interest in it—a real excitement, especially among traditional women," she said. "I think the movement now has a momentum of its own and we really do have the beginning of a worldwide women's movement—as part of a human rights movement."



Discrimination and Community Mental Health

CHALLENGING INSTITUTIONAL RACISM

By Richard Shapiro

About 6 years ago, the Black Psychiatrists of America forcefully criticized the National Institute of Mental Health for its failure to include more blacks and other minorities in decisionmaking roles. Moreover, NIMH was faulted for its unequal allocations of grant resources and support of racist-oriented research. In response to extensive discussions and negotiations with the Black Psychiatrists of America, the Center for Minority Group Mental Health Programs was established over 4 years ago by the National Institute of Mental Health. Dr. James R. Ralph, a black psychiatrist, was nominated for this position as chief of the center by his peers.

In its 3 years of existence, the center has sought to be a model for the NIMH in funding nonracist, nondeficit model research; that is, the focus of the research is upon the strengths leading to the adaptations which enable minority groups to survive and grow despite the hostile forces they face.

The center has funded the training of minority group mental health professionals and behavioral scientists. Its Initial Review Group—the committee which reviews all grant applications—is totally minority, consisting of 14 members representing blacks, Asian Americans, Hispanics and American Indians, and Alaskan Natives. It is unique within NIMH and possibly throughout the Federal Government.

The Minority Center's program funding priorities were developed through a planning process which involved hundreds of minority mental health workers, behavioral scientists, and interested citizens meeting in conferences planned and sponsored by various minority

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groups in different locations throughout the Nation.

Defining Racism

As a result of our experience, we have some thoughts on the subject of racism and community mental health and how racism can impinge upon a community mental health agency.

Perhaps the best definition of racism is an operational one. This means that the definition must be based upon the way people actually behave, rather than upon logical consistency or purely scientific ideas.

Even though "race" and "color" refer to two different human characteristics, in America it is the visibility of skin color—and of other physical traits associated with particular colors or groups—that marks individuals as "targets" for subordination by members of the white majority. This is true of blacks, Puerto Ricans, Mexican Americans, Japanese Americans, Chinese Americans, American Indians, and Alaskan Natives.

Specifically, white racism subordinates members of all these groups primarily because they are not white in color, even though some are technicallly considered to be members of the "white race" and even view themselves as whites. In its publication *Racism in America,* the U. S. Commission on Civil Rights says racism is one of those words that many people use and feel strongly about, but cannot define very clearly. Those who suffer from racism usually interpret it quite differently from those who don't. This ambiguity is possible, in part, because the word refers to ideas that are very complicated and hard to pin down. Yet, before we can fully understand how racism works or how to combat its harmful effects we must first try to define it clearly.

By our definition, racism is a pattern of behavior whose consequences, intended or not, are to reinforce present inequities.

What significance could this definition have to the staff and board of a community mental health agency?

Some of these agencies and institutions may be inadvertently functioning in a fashion that is racist—and also in possible violation of Federal civil rights laws and policies.

Here are some of the factors which can be used to evaluate and then, if appropriate, initiate the necessary corrective actions.

The Community Agency

For example, an agency may ask itself:

—Did blacks and other minority persons have significant input into the original planning of the program—in the development of goals, objectives, and program activities? (In communities where Hispanics, Asian Americans, and American Indians are the minority populations, the issues discussed would also be applicable to these populations.)

—Did they have a strong voice in the location and design of the buildings and use of physical space?

—Was the history of the minority community, its values, and its perceptions of health and mental health considered and utilized in the planning?

—Are these factors considered in present planning and program implementation?

—What is the racial composition of management and administrative staff? Is it representative of and knowledgeable about the population which the agency serves?

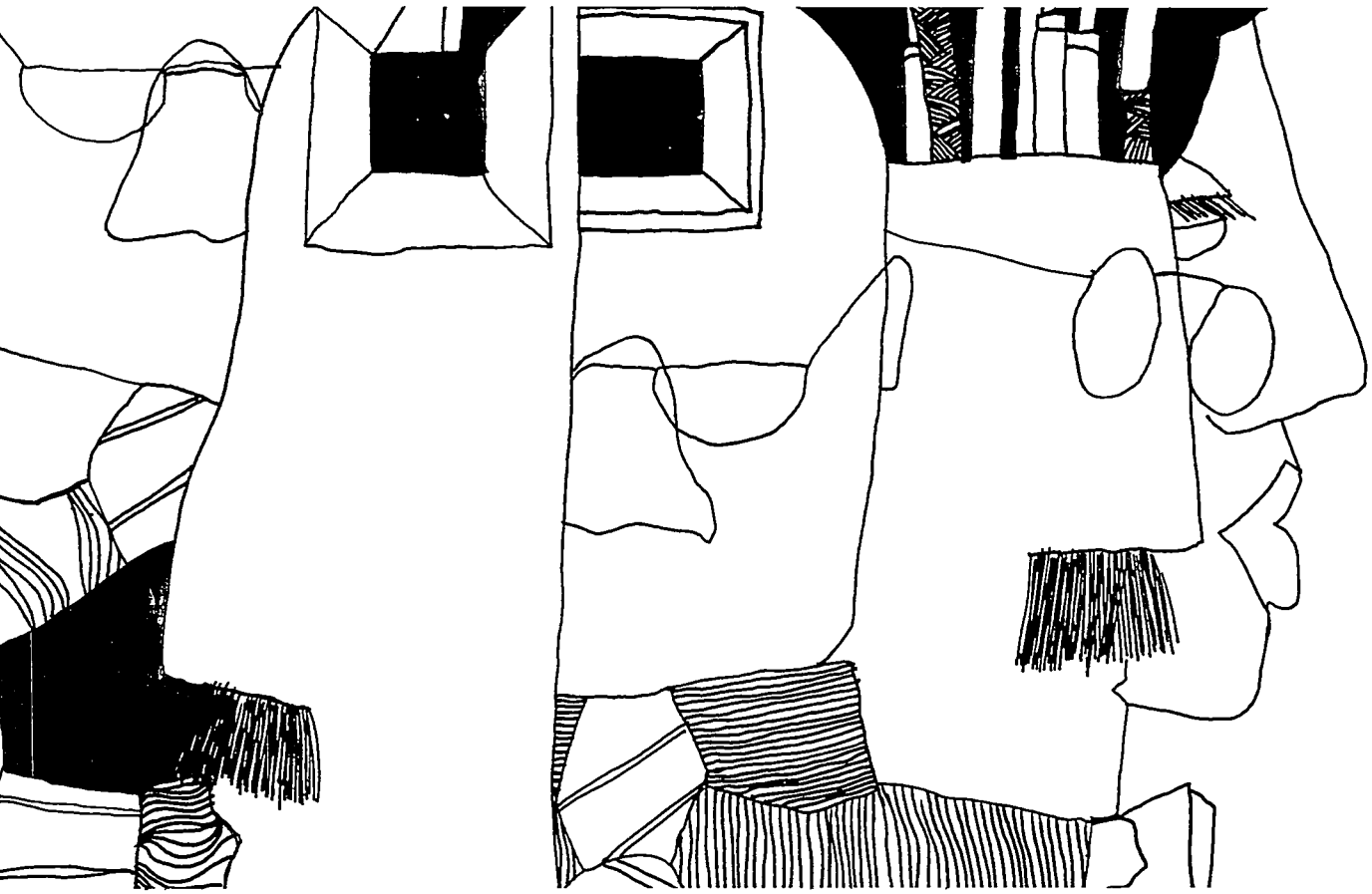
—Do the board, the administrators, and the staff know how they are perceived by the minority community?

In talks with black leaders and concerned citizens in one Southern State during several months, two persistent themes were present.

First, mental health agencies were neither comfortable nor desirable places to go to for services and they were viewed as potentially dangerous. Second, minority persons were not involved in planning the delivery of services, and this had resulted in ineffective or irrelevant services.

Direct Service Staff

An agency may wish to examine some specific issues and questions relating to staff personnel who provide services to minorities or



otherwise have direct contact with them.

For instance, who are the telephone operators and receptionists? Usually they are the initial contact staff—but how do they perceive and interact with minority patients and their families? Are there representative members of minority persons in these positions? Are they sensitive to the uniquely demeaning experiences which minorities have encountered in asking for help from predominantly white agencies?

A mental health agency should know the racial composition of its service staff. Are the professionals—psychiatrists, physicians, psychologists, nurses, social workers, and others—inclusive of minorities in a semblance of proportion to their number in the service population?

Similarly, are the mental health workers, aides, technicians, and volunteers representative of the total population?

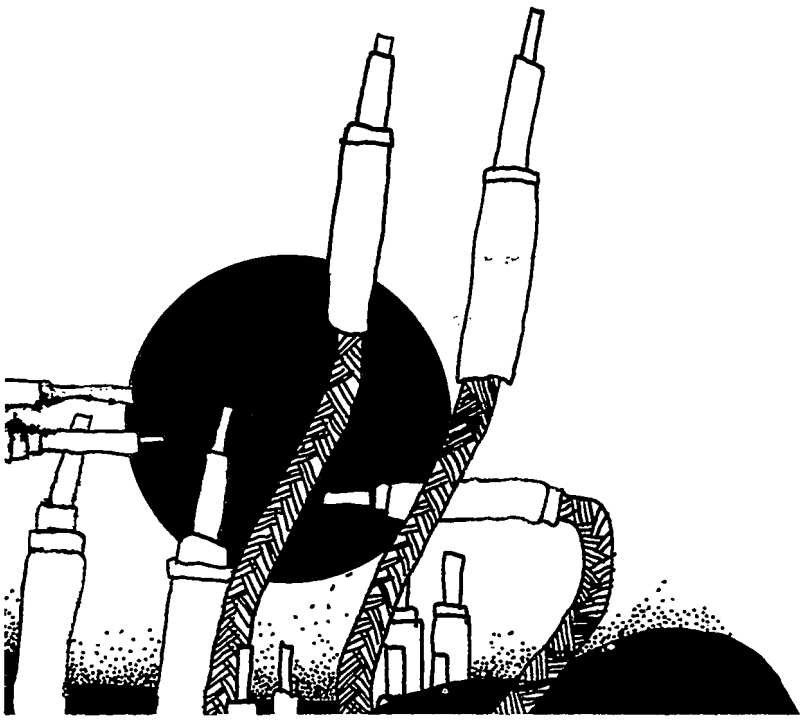
Value Systems

How do treatment and consultation staff perceive minorities and their mental health service requirements? What are the stereotypes or prejudices (if any) which may be distorting staff perceptions and thereby affecting their capacity to provide effective services? A number of studies have demonstrated that the values and biases of the diagnostician can operate to impede an accurate diagnosis. Minority and lower socioeconomic persons consistently receive inaccurate diagnoses and prognoses. They are frequently evaluated as being more severely disturbed than white or middle-class patients and, as a result, have a poorer prognosis and don't fare as well.

A white psychiatrist, for instance, may attach different pathological significance to the same symptom or behavior deviation in a black patient and a white patient. In part, this may be due to a class slant, inasmuch as a number of studies have indicated that upper-class persons are more likely to be diagnosed as psychoneurotic than lower-class persons.

For example, there seems to be greater tendency to label certain symptoms as neurotic when they appear in whites and as due to psychosis or a psychopathic personality when they appear in black patients.

Blacks are overdiagnosed in some categories, underdiagnosed in others, given selective treatment, and perhaps no treatment at all



if a symptom is believed to be a "cultural characteristic."

Depression

Whites are more likely to be diagnosed with repressive psychosis, while blacks are likely to be diagnosed as schizophrenic, probably because until recently psychiatrists in training were taught that black people did not suffer depressions. Depression is typically regarded as a more acute rather than a chronic illness with a better prognosis than schizophrenia.

Even within the category of schizophrenia we find a diagnostic pattern related to the patient's race. Blacks are more likely to be diagnosed process schizophrenics with a poor prognosis for recovery. Whites are more likely to be viewed as reactive schizophrenics with a more favorable prognosis for recovery. Blacks also are disproportionately diagnosed as paranoid schizophrenics.

Research has demonstrated that when consistent, structured, and objective diagnostic criteria are utilized these patterns are not present. Studies in which hospitalized subjects were rediagnosed have found no relationship between race and diagnosis, contrary to hospital diagnostic patterns. When patterns related to race exist, particularly when such diagnoses are detrimental to the black patient, one could conclude that the pattern is due to the conscious or unconscious attitudes of the diagnostician.

Such detrimental results can occur even when standardized tests are used by trained psychologists. The Rorschach test and the Minnesota Multiphasic Personality Inventory have been shown either to contain cultural biases or to be interpreted in a biased fashion when the psychologists have knowledge of the socioeconomic characteristics of the subjects.

Patterns of diagnosis related to race can have serious consequences for a black patient. A patient who is diagnosed as depressive can be treated with more chemotherapeutic options than schizophrenic. Thus the likelihood of a positive prognosis is seriously impaired if the patient is diagnosed as schizophrenic. Clearly, the subordination of a patient because he or she is black is, in other words, an example of racism. The intention of the diagnostician or therapist is irrelevant. The professional may be completely unaware of the pattern, but the negative effect is evident.

Agencies should examine their diagnostic and treatment patterns to determine if racially-related patterns are inadvertently present in treatment programs.

Treatment and Followup

A number of studies are available which document patterns of unequal treatment afforded black and white patients in the mental health system. Recently a study examined service delivery to over 13,000 black and white patients in 18 community mental health agencies in the Seattle, Washington, area. The findings, in several instances, support prior research and may serve as a guide to an assessment of community based programs.

Seven key findings are:

1) Blacks tended to be assigned less frequently for outpatient than inpatient care in comparison to whites even after the effects of all other demographic variables were accounted for.

2) Blacks were more likely than whites to receive intake diagnosis.

3) Whites were more often engaged in group and family-types of therapy than blacks.

4) There were no racial differences in individual psychotherapy.

5) Consistent differences were found in the kind of personnel performing the intake and render-

ing treatment to black and white clients. Blacks were more often seen at intake by paraprofessionals and less often by professional specialists (psychiatrists, psychologists, and social workers) than whites.

6) Similarly, the kind of personnel performing the therapy differed, with blacks working more with paraprofessional than professional staff in comparison to whites. Both of the findings persisted irrespective of other demographic differences.

7) Of the black clients, 52.1 percent dropped out of therapy after the first session as compared to 29.8 percent of the whites—a significant difference related to race when all other variables are accounted for.

The same research study produced similiar findings with regard to Asian Americans.

Openness and Commitment

A fundamental question, of course, is the extent to which the percentage of blacks being served is representative of the number in need.

Two factors related to treatment which community agencies may wish to examine are the extent to which the therapeutic staff as well as other staff members are able to discuss race and racial issues. Does the therapist or helper avoid racial differences if they exist or is the difference acknowledged and dealt with? And how committed, really, are the therapist and others to working with black people?

Another issue related to openness could be examined by agencies, and that is: Is it possible for black staff and board members to deal with racial differences and racism or is there an overt or covert taboo which blocks the addressing of these issues? Black professionals have written extensively of experiences where the expression of dissent or difference was not tolerated—where black or other minority staff were expected to be "white" and conforming.

As might be expected, if this situation prevails among staff members and the board, it is not likely to facilitate a climate of effective service delivery to blacks, or whites either for that matter.

Consultation and Referrals

A major issue of concern throughout the Nation is the two-track system of service delivery. Black youth requiring help are more likely to be referred to or placed under the criminal justice system—correctional institutions and prisons. White youth are more likely to be provided other care. In several communities, the Center for Minority Group Mental Health Programs found that black youth were not accepted into nongovernmental child care agencies on other than a token basis.

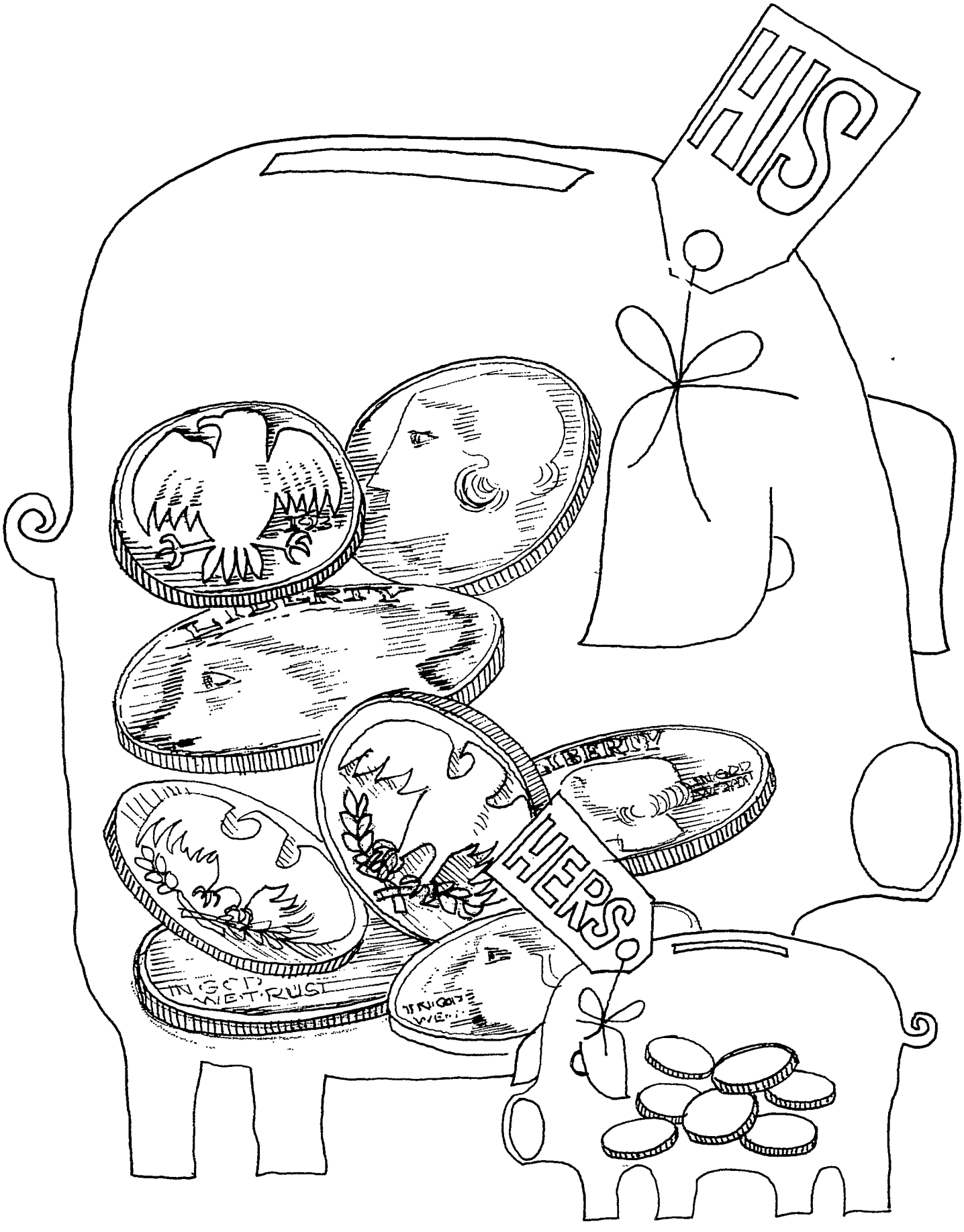
A question which might be asked of community mental health agencies is the extent to which they are knowledgeable about this pattern and are attempting to correct the situation. Also, one might ask whether agencies inadvertently support the perpetuation of this phenomenon. For example, in one southern community, it was found that the mental health center was receiving a disproportionately low number of referrals of black children from the public schools. The community data, however, did not demonstrate that black children were in need of fewer mental health services than white.

Work with public schools and law enforcement and social service agencies is necessary if we are to see the end of the two-track system. Also, it is evident that a concerted consultation and education program within the community is necessary if we are to correct this type of problem as well as gain support for the agency in eliminating racial discrimination and racism generally. Support will have to be obtained from the black as well as white communities.

Programs of this type are clearly a significant requirement in promoting mental health and preventing mental disorders. A task force of the Joint Commission on Mental Health of Children stated: "Racism is the number one public health problem facing America today. The conscious and unconscious attitudes of superiority which permit and demand that a majority oppress a minority are a clear and present danger to the mental health of *all* children and their parents."

The group further stated that it believed "that the racist attitudes of Americans which cause and perpetuate tension are patently a most compelling health hazard. Its destructive effects severely cripple the growth and development of millions of our citizens, young and old alike. Yearly, it directly and indirectly causes more fatalities, disabilities, and economic loss than any other single factor." While this statement was drafted in 1968, national events indicate its relevance today.

The Racism and Mental Health Program of the Center for Minority Group Mental Health Programs, National Institute of Mental Health, is interested in supporting research which focuses upon the issues discussed in this article. For further information, write to the author at the Center for Minority Group Mental Health Programs, Division of Special Mental Health Programs, National Institute of Mental Health, 5600 Fishers Lane, Rockville, Maryland 20852.


HIS
HERS
LIBERTY
IN GOD WE TRUST

EQUALITY IN RETIREMENT BENEFITS

THE NEED FOR PENSION REFORM

By Barbara Bergmann and Mary Gray

A great principle which has emerged from the antidiscrimination legislation is that it is no longer permissible for an employer to treat any particular woman as if she were "the average woman." The employer can no longer assume that any particular woman can lift only what the "average woman" can lift, or that any woman will stay on the job only as long as the "average woman" will stay, or that once on the job any woman will only produce as much as the "average woman."

Grouping people by sex when making decisions as to hiring, promotion, pay, or any other personnel action constitutes unlawful discrimination. An employer who wants to hire someone who will have to lift heavy objects is free to give all persons who apply a lifting test. However, that employer is not free under the law to make the hiring decision on the basis of the conformation of the sex organs of the applicants.

The fact of life which the law now recognizes is that all men are not, for purposes of work, different from all women. There is a distribution of talents and propensities among men and another distribution of talents and propensities among women, and these distributions, although not identical, do overlap. The "average" of the male distribution may be different from the "average" of the female distribution, but individuals in one distribution frequently have equivalent talents and propensities to individuals in the other.

As it is with talents and propensities, so it is with death ages. While the "average woman" dies later than the "average man," considerable overlap exists in the distribution of death ages. If at a single point in time we were to pick at random 1000 men age 65 and 1000 women age 65, and follow them through and observe their death ages, we would find an overlap of 84 percent. This means that we could match up 84 percent of the men with 84 percent of women as having an identical year of death. This leaves 16 percent of the population, consisting of the 8 percent who are men who die relatively early, unmatched by women's deaths, and the 8 percent who are women who die relatively late, whose deaths are unmatched by male deaths.

Allowing employers to provide higher pension benefits for men than for women on the grounds of higher cost is to allow employers to assume that all men are like the "average man" and all women are like the "average woman" in terms of death age. It allows employers to arrange things so that the savings in annuity cost for the 8 percent of the population consisting of excess men who die early are entirely monopolized by men, although 84 percent of all men are in the overlap group.

The extra burdens imposed by the higher annuity costs of 8 percent of the population consisting of excess women who die late are entirely allocated by employers to women, 84 percent of whom are in the overlap group. This is "because" the conformation of the sex organs of men do not match those of the excess people who die late. What is at issue is whether it is lawful to continue using the word *because* in this way and in this context.

Barbara Bergmann is Professor of Economics at the University of Maryland. Mary Gray is Professor of Economics at American University. Both are members of Committee W on the Status of Women in the Academic Profession, American Association of University Professors.

We would argue that the law, which forbids using sex as a way of grouping employees, requires that both sexes share these extra burdens and savings. Pension plans which group employees by sex constitute a denial of equal pay for equal work for the majority of the population which is in the overlap group.

The women in the large overlap group with lower pensions are, to say the least, in an unfortunate position. The considerable difference in their living standard is not even compensated for by the dubious utility of a longer life; they do not cost the system any more than men do; their only crime is that they have the same sex organs as the few people in the longer-lived group.

This seems a slender reason to condemn them to a considerably meaner living standard than men. Public policy embodied in the antidiscrimination legislation requires that the burden of supporting the 8 percent of the population who are longer lived be shared by the entire population, rather than putting the whole burden on the 42 percent of the population (most women) who are like the long-lived group in sex organs but not in longevity.

Some would allege that the retirement plans based on equal contributions and unequal monthly benefits do in fact constitute "equal benefits" since the "average" woman receives the same as the "average" man in aggregate payout because of the differences in life expectancies. In fact, even if each woman could be guaranteed that she would live out her average life expectancy and each man died promptly at the male "average age of death," the benefits would not be equal if the monthly payout were different. Bills must be paid on a day-to-day basis and the local supermarket is not interested in life expectancies; one does not eat "in the long run." Even so, we know that every person does not live the average life span and if the risk of the long-lived is not shared equitably, then women, as members of a class, are disadvantaged when employers can provide pension plans which permit discriminatory monthly benefits.

Some employers, including many universities and colleges, purchase annuities for their employees from insurance companies rather than making pension payments directly. There are many ways these insurance companies might arrange their charges. They might (and for some purposes do) group men and women together, and, after consideration of the characteristics of the group they are insuring, charge an equal amount for each employee and promise to deliver equal monthly pension benefits to each.

However, most private insurers will oblige the employer by offering to give the women employees less in terms of monthly benefits. This obliges the employer because it lowers the price the employer has to pay per employee from what it would be if all employees got the same benefit.

As long as it is permissible for employers to seek to purchase such a package they will find insurance companies who will be glad to oblige them. The cost is lowered for the employer, and the buck is passed to the insurance company to do the discriminating. The pretext is the greater dollar cost of servicing the "average woman." This pretext is illegitimate for the employer to use in the context of salary, or hiring, or promotion. There is no reason to permit its use in the field of pensions or fringe benefits generally.

The use of pensions as a discriminatory device is made crystal clear by the practice of many universities and colleges in treating death benefits and pension annuities in an inconsistent manner. In the case of benefits for death before retirement, the higher mortality rate of the "average man" and the higher costs it entails are ignored, and men and women are frequently given the same benefit for the same premium. That is, in figuring death benefits, men are given the "advantage" of averaging out men's and women's mortality.

The same university may then turn around and again give men the advantage in retirement benefits by failing to average out men's and women's mortality. If the university (and the insurance organization which sells them the policy) were truly interested in costs as a basis for the distribution of fringe benefits, it would not act in this inconsistent manner. It appears that what the university and the insurance organization which services it are really interested in is taking advantage of women's weak position in a discriminatory labor market to deny them the full measure of benefits the university gives to men.

Let us turn now to the issue of "actuarial soundness." There are numerous ways of achieving "actuarial soundness." Certainly a system is financially sound if the total of discounted costs equals the total of discounted benefits, plus some margin for administration, deviations from past experience, etc. This may be achieved by splitting up the population for rate-making purposes into many small groups or into a few big groups, or keeping the entire population in one group.

For example, it would be actuarially sound to split up the population into different rate-paying groups, the assignment of individuals to groups depending not only on sex but on race, geographic location, blood

pressure, number of cigarettes smoked in previous years, number of relatives dead of cancer, and the like. Or it would be equally sound actuarially for the law to mandate keeping the whole population in one group and charging each the average cost of servicing the entire population.

Retirement systems *can* operate under equal benefit schemes—most State retirement schemes do, the Federal retirement system does, and with all its other defects, Social Security pays men and women with identical work histories the same benefits. Similarly, retirement systems can operate without sex classification in their actuarial tables. The tables can be adjusted for many different groupings, or for no grouping at all.

Supporters of the status quo worry that institutions whose insured population is overwhelmingly male would pull out of existing plans were their rate to be based on sharing the risk uniformly and would go to companies who insure only groups which are almost exclusively male and which could therefore offer lower rates for the same retirement benefits. This is unlikely for several reasons.

First of all, companies could not legally offer insurance only to predominantly single-sex groups so if male groups moved to one company, female group would follow and eventually equalize the rates. Secondly, one would hope that eventually a less sex-stereotyped work force would eliminate the potential for sex-based insurance pools to be formed. Finally, in the college and university retirement business, one company is so firmly entrenched that the prospect of temporarily lowered rates would not cause any significant shifts away from it.

The Government's Position

The current state of legislation, its interpretations, and connected litigation is confused. Executive Orders 11246 and 11375 forbid discrimination in employment practices by Federal contractors. The Department of Labor (DOL), which is responsible for enforcement, has issued guidelines providing that employers may either pay equal periodic (monthly) benefits or make equal contributions. HEW has been delegated responsibility for enforcing the Executive orders and thus the DOL position on pensions.

HEW is also responsible for enforcing Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex against students and employees in educational institutions receiving Federal assistance. After 3 years HEW finally issued Title IX regulations effective July 21, 1975. The provisions on pension benefits in these regulations are identical to those contained in the DOL regulations used by HEW in enforcing Executive Order 11246.

At the same time, the Equal Employment Opportunity Coordinating Council, made up of the Departments of Justice and Labor, the Civil Service Commission, the Equal Employment Opportunity Commission, and the U.S. Commission on Civil Rights, has been directed by the President to study the pension issue further, in consultation with HEW.

One alternative would call for employers to pay equal benefits and the other would require both equal benefits and equal contributions, that is, mandated unisex tables. It seems that requiring equal benefits without equal contributions would in the long run have a deleterious effect; since retirement is the biggest chunk of fringe benefits, equal benefits and sex-differentiated annuity tables mean a higher cost to the employer for women employees.

The Labor Department has agreed with HEW's interpretation of what constitutes, or fails to constitute, discrimination, but is currently reviewing two alternatives:

- to require equal benefits
- to continue current policy of allowing either equal benefits or equal contributions.

Finally, the EEOC, the enforcement agency for Title VII of the Civil Rights Act of 1964, holds that there must be equal benefits. Several of its decisions are about to be tested in the courts. Moreover, in at least one case, a woman has sued an insurance company directly, charging sex discrimination due to unequal monthly retirement benefits.

Much has been made of the alleged conflict in existing agency interpretations. In fact, there is no conflict; any retirement plan which meets EEOC's requirements for equal benefits meets Labor and HEW requirements for equal benefits *or* equal contributions. Moreover, if either or both of these agencies change to require both equal benefits *and* equal contributions, any plan meeting such a test will also meet EEOC's. That is, conformance with the strongest conditions implies conformance with the weaker.

One final issue which deserves comment is the complications arising from various options within retirement plans—single-life, joint-life, 10-year certain, etc. Under existing retirement plans which have these various options, the substantial sex differentials exist only in the single life option. However, under the grouping of men and women together for the sharing of risks, the payout rates on all options would be the same for similarly situated men and women since the employees would not even be identified by sex.

Fair Housing And

HEARINGS POINT UP INEQUITIES

In this article we present testimony delivered at three administrative hearings on equal housing opportunities for the Spanish speaking, held in Tampa, Dallas, and New York City. The hearings were held under the aegis of Dr. Gloria E. A. Toote, Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development. Dr. Toote was assisted in questioning witnesses by Kenneth F. Holbert, Director of Civil Rights Compliance for HUD; Felipe Garcia, HUD's Spanish Speaking Coordinator; and Frank E. Schwelb, Chief, Housing Section, Civil Rights Division of the Department of Justice.

By way of introduction, below are excerpts from a background paper prepared for the hearings.

Juarez and Associates, Inc., Los Angeles, California, prepared a background study designed to provide some answers and some questions and to initiate further inquiry into the area of equal housing opportunities for Spanish-origin people in the United States. Findings are represented here without the qualifications introduced in the more complete report.

According to the March 1973 census estimates, there are 10.6 million persons of Spanish-origin background in the United States, constituting over 5 percent of the national resident population. Sixty percent (6.3 million) are Mexican American; 15 percent (1.5 million) are Puerto Rican; 7 percent (733,000) are Cuban; 6 percent (600,000) are from Central or South America; and 13 percent (1.4 million) are of other Spanish origin.

In general, the Spanish-origin population in the United States is highly urbanized, but there are varying degrees of urbanization within the different subgroups and across regions. The Spanish-origin population includes the second largest deprived minority in the United States. It does not follow established American ethnic immigrant models, and there is no steady improvement of socioeconomic position as one moves from the second generation immigrant to later generations.

Housing of Spanish-Origin People

Historically, the Spanish-origin population has found it very difficult to purchase decent housing in appropriate neighborhood environments, and this situation has continued throughout recent periods. Relatively low current and anticipated future incomes, larger family size, and high rates of unemployment contribute to the pattern. Housing problems are manifested in severe overcrowding and a disproportionately high share of income spent on housing.

In selected cities with major concentrations of Spanish-origin persons, the proportion of households spending more than 25 percent of their income on housing ranges from 29 percent in Houston to 47 percent in Miami. The percentage of households experiencing overcrowding ranges from 24 percent in Chicago to 34 in Miami. (Overcrowding in housing units is defined as more than one person per room.)

Residential Segregation

The level of residential segregation of Spanish-origin people from Anglos in the United States is relatively high. Indexes of segregation range from 0 to 100. If Spanish-origin persons were to represent 5 percent of the total population in a city, and each subarea (census tract) had 5 percent of the Spanish population, the index would be zero. If, however, one subarea had only Spanish-origin persons and all other subareas had only Anglos, the index would be 100.

The Spanish Speaking

Therefore, the higher the index, the greater the departure from an expected rate assuming the populations were completely integrated. The mean index of segregation of Spanish-origin persons from Anglos in the United States has been found to be 54.4, according to a study of 35 southwest central cities using 1960 census data.

Traditionally, explanations of residential segregation have raised three issues in particular: socioeconomic differences between populations, housing market discrimination, and self-segregation. All of these may make some contribution to segregated housing patterns, but there is more to the problem. By itself, residential segregation may inhibit or block realization of improvements in socioeconomic status and other desired objectives. In other words, residential segregation may impair access to employment, health care, and other opportunities.

Voluntary segregation may be produced by historical experiences in searching for housing in unsegregated areas, and is likely to involve more than the desire of an ethnic community to live apart from the rest of the population. Unsatisfactory experiences in the past including anxieties or, for that matter, threats to the family's health and welfare, are experiences which may be transmitted from one generation to the next. Nevertheless, the idea of 'voluntary segregation' can be a convenient rationalization by real estate agents, financial institutions, and others who steer Spanish-origin persons to the barrio.

Modern forms of discrimination are often subtle and do not appear to clearly violate the laws. Notions relating to risk and credit worthiness may be invoked to justify discriminatory housing practices; for example, Spanish-origin persons who try to rent outside the barrio may be asked for credit references, a long-term lease, and more than a month's rent in advance.

Others may find limited access to private and assisted housing in middle-class suburbia, experience rent gouging, are provided with limited market information, and see few Spanish speaking brokers and building managers. Prospective home buyers may be faced with practices which result in 'redlining' of neighborhoods, underappraising, higher down payments, and higher interest rates. Homeowners may refuse to sell, or restrictive convenants may be invoked although they are clearly illegal.

The lack of Spanish speaking specialists in the real estate brokerage industry and among financial institution personnel is among the obstacles to meeting the housing needs of Spanish-origin people.

Many factors must be taken into consideration and adjusted to the needs of the specific geographical area.

Outreach Efforts

Some situations call for the person-to-person approach, while others would be better served by the media—radio, TV., newspaper, pamphlets.

If the one-to-one approach is used, what personal background would be most useful? Personnel concerned with compliance must be known in the community as specialists in that area. The perception of whom to talk to may be as essential as which office to go to. Responsible personnel must have the confidence of the community; if they are viewed as 'captives' of the Anglo system, their effectiveness might be quickly eroded.

The availability of more Spanish-speaking personnel is as important as educating people about the structure of HUD and who is in charge.

TAMPA

DR. TOOTE: At this point we will now receive the testimony of Mr. Ricardo Alverez, a consultant of Juarez and Associates, Inc., of Los Angeles, California. Mr. Alverez will give a synopsis of a report on equal housing opportunities for Spanish origin people in the United States. *(Mr. Alverez summarized his report and then answered questions.)*

WILBERT HOBBS: Wilbert Hobbs, from the Division of Miami Labor. Mr. Alverez, would you consider it appropriate to say that the pride that you were trying to define could in part be fear?

I've noticed in working with both black and the Spanish speaking population, migrant areas, that it is a fear and a feeling of intimidation of going before a group of people, if you're uneducated, and trying to talk with them because obviously you will have some communication barriers.

In the black community, as in many cases in the Spanish community, word of mouth is about the most effective thing. If you have someone in a community organization, like the community action agency, where a person who is uneducated and poor would hear from another person, "Well, I had that problem but I went to Joe at the CAA and he helped me out." Well Joe does not intimidate the uneducated or the poor black because Joe speaks the same language.

MR. ALVEREZ: Basically what I mean when I'm talking about pride of people is that a person—if I could, maybe an example would be a bit clearer—a person that goes to a house, is refused the house, that person would be afraid to admit to other people that he or she was refused in an attempt to obtain housing.

MR. GARCIA: Mr. Alverez, in order to expound on that, you are using pride as a concept which overlaps with honor, *el honor;* saving face; *orgullo* or pride?

MR. ALVEREZ: That's exactly correct.

MR. GARCIA: A lot of which is intertwined with what others have said with religion, self-concept, and so on?

MR. ALVEREZ: That's correct.

MR. GARCIA: As opposed to pride in the normal sense of the words. Is that correct?

MR. ALVEREZ: That's correct.

MR. SCHWELB: As I understand it, you talk about what might be voluntary segregation because living in unsegregated areas produces anxieties of having threats to the family's health and welfare. I think your point there is that even though no actual threat has been made yet, because of past experience, the Spanish speaking family doesn't feel free to move into that area. In that sense their choice is not free in the practical context of its exercise. Now on the other hand there's the point of pride that comes in. Once you've been excluded you don't want to make complaints because you say well, if they don't want me I'm too proud to live there.

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(Charles Jones is Director of Tampa's Office of Community Relations, and Ronald Rotella is the Director of the Tampa Metropolitan Development Agency.)

MR. GARCIA: Would you agree that historically blacks are allowed to live in those areas that are considered least desirable for habitation by others?

MR. JONES: Not necessarily in that sense. There are just pockets where there is resentment, you know, and I'll have to say that there has been progress in many previously all-white areas as there have been blacks that have moved in, and of course they have become all black. There are some areas where blacks have moved in, are still moving in, that are totally integrated areas, and the more expensive or you know, class areas, and what have you, but what I'm

saying is there are also pockets of discrimination, or activities of discrimination on individual basis. But as a whole, blacks live all over the total community throughout the county.

MR. GARCIA: But they don't do that to the Spanish people?

MR. JONES: No, there's no problem. Let me recite that again, you know, because you continuously ask me the question and I thought I made that very clear. Spanish speaking folks just don't have discrimination problems in this community. Thirty years ago there was a similar problem to blacks, you know, the color, the hue. Not the same kind of problem but since I was a baby there has not been any problem.

You've got people with Spanish names who don't speak any Spanish at all, and they are totally integrated.

MR. HOLBERT: One question to either of you gentlemen. What is the distance from Tampa to Miami? Roughly—

MR. JONES: 250 or 260 miles.

MR. HOLBERT: Were either of you present this morning when the first witness appeared, Mr. Las Casal?

MR. JONES: I was not here.

MR. ROTELLA: Yes, sir, I was.

MR. HOLBERT: You will recall his statement that in the experience of the Dade County [Miami] Fair Housing and Equal Opportunity Commission, they have received a significant number of complaints related to steering and discrimination as to rental and sale and financing. The substance of both statements coming from Mr. Rotella and Mr. Jones is that the conditions which are described in Miami approximately 270 miles away do not pertain or exist in Tampa.

Would you care to identify or state how or why, within the same State, the effective discrimination is felt in one major city and does not exist in another major city?

MR. ROTELLA: To summarize my statement, we are not aware of any formal complaints that have been lodged or through our personnel involved in the area of counseling relocation of any formal complaints. I think at a later point in this testimony you have some prominent Spanish speaking long-time residents of Tampa that might be more apt to answer that question than myself. My experience in this regard is limited to my employment with the city since '62.

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DR. TOOTE: At this point I should like to call for testimony of Mr. Melvin Chavez, director of the League of United Citizens, and State Director, League of United Latin American Citizens.

MR. CHAVEZ: As a realtor, and without being redundant, it was mentioned this morning that there continues to be discrimination in rental and in some cases, still in mortgage availability to people of Spanish origin.

One of the very important reasons I see that it is not available—the Latin family unit many times stays as a unit for a considerable period of time. Where you may have working children, working wives, their incomes are not considered in the qualifying amounts that are required to make payment on the debt service. This, I think, is an area and has been proven time and time again. Latin families do take a lot of pride in the ownership of their home. Oftentimes this is the largest investment or asset they will ever have.

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MR. TOOTE: Next will be Mr. Wilbert O. Hobbs, Program Investigator, State of Florida, Department of Community Affairs.

MR. HOBBS: Doctor Toote, I shall concern my presentation with what I consider basic inability of farm workers to secure decent housing. I feel that it is the result of practices and communications under the acts committed by the Federal Government, as well as local government. To put it in the right context, let's consider migrant housing as it is now. There are basically two types. One is that which is furnished by the employer, the farmer; and the other is federally-funded housing which is funded by grants or loans to farmers.

Now to give character to farm worker labor camps, or migrant labor camps as they are called, keeping in mind that these comments were made by Florida real estate agents and represents their opinion as to what the 23rd September Federal Register and the Occupation Safety Housing Administration regulations meant for the standards of migrant labor camps.

The first interpretation was that the housing standards would no longer be applicable to temporary farmworker housing owned, managed, or controlled by the employer unless the farm worker can establish that he was required by his employer or by practical necessity to utilize the housing.

Housing—this is the second interpretation—shall no longer be required to be structurally sound or in good repair or in a sanitary condition providing protection against the elements. Rather, only a waterproof roof will be required. Only 50 square feet per employee shall be provided within the shelter. No square footage of space is required for nonworking children of employees. There is no space requirements between beds so that there is no limit on the number

of beds or occupants of any one dwelling.

Only one toilet per 15 employees is required. For over 150 employees, only one toilet for each additional 40 employees is required. No windows are required so long as some ventilation is provided. No screening is required so long as insects, etc., are kept out. No electricity is required so long as some form of lighting is provided.

Garbage, toilet, bathing, and handwashing facilities may not be accessible to the sleeping area.

I cannot describe to you the situations I have seen in many labor camps around Florida and South Florida, Dade County and Homestead area, south Bay Area, because to try to attempt to describe these would be something that you may consider fantasy. But they are bad. They are very bad. "Farmworker housing," if it is to be constructed under the standards of OSHA, is no more than shelter.

I see where it will be a continual push to tell farmworkers, as is being done now in local governments, that we have housing for you. In many cases farmworkers are denied homes in public housing facilities because, "we have housing for you at our migrant labor camps."

In Florida it is beginning to be not migrant farmworkers but more a seasonal farmworker. Many people, because of the climate and in many cases because of the citrus [season] which is now about 9 or 10 months, are settling out of the stream and becoming seasonal farmworkers.

No one has to really study to understand how much housing has to do with education, health, etc. Poor migrant farmworkers are denied, because of the ties to the employer, from complaining. He's denied because he's ignorant of what rights he has. This poses a serious problem for the health of their kids; the education of their kids; and I certainly feel that if there is going to be a change in the migrant situation it will be in the education and housing of the future so-called migrant children.

I'd like to get into the reluctance of migrant farmworkers, and I am speaking primarily from the Spanish American point of view, the reluctance they have to relate their problems to non-Spanish speaking people. On several occasions we have come in as non-Spanish speaking people and interviewed the Spanish speaking people to find out what problems they have. We were told on many occasions that they did not have any.

However, whenever our field worker who speaks Spanish and could be understood as a Spanish American came in, he was told the problems that they had.

I say this to ask for some sort of coordination, whether it is on a community agency level or whether HUD employs Spanish speaking people to relate to the Spanish speaking community on a community basis, that is—not in Atlanta, not in Washington—but someone who goes in the community who is trained by HUD and who can relate to the average Spanish speaking and in many cases, undereducated Spanish speaking person which is the case with the migrant population.

The employment of migrants is temporary in many cases, but we are not that concerned with temporary employment because we are trying to offer more opportunities for farmworkers to get out, if they so desire, of farmwork. But in order to do that we've got to offer them first decent housing so that their kids can get in a neighborhood where they can go to a decent school. Not in a labor camp that's a thousand miles off the main highway; not in a labor camp where a kid cannot take a bath and goes to school and is ridiculed by his peers or the other students.

As long as the Federal Government persists in issuing mandates, such as the mandate in the Community Development Housing Act that local governments will decide who can apply for housing assistance, farmworkers will not be given a fair shake.

In an instance in Florida, the Farmers Home Administration approved a multimillion dollar loan grant package to a nonprofit organization to provide a community for farmworkers, a community that would be self-contained—with modern housing. But the county commissioners denied zoning variations because the affluent community just 15 miles down the road said, "we don't want them in here. They are a threat to the integrity of our neighborhood."

I can see no way that the county commission should be given the money or given access to the money regardless of the plan unless you really have safeguards that can keep this type of action from happening. This is not an isolated incident in Florida. It happened in several counties. I'm not going to call the names of the counties, but there are several counties in Florida who will absolutely not zone areas anywhere near a decent school, anywhere near a decent hospital, for communities that farmworkers will go into.

Now for "low income housing:" low income housing is low income housing for certain people as long as you're not an agricultural worker. If you're an agricultural worker in most cases you're told, as I mentioned, "We have houses for you." Until we get out of what is farm labor housing and what is housing period, this situation will continue to occur.

NEW YORK

MR. HOLBERT: The first witness is Mr. Jose A. Rivera, Professor of Law, Rutgers University School of Law, New Jersey.

MR. RIVERA: My experience in this area stems in part from my association as a legal services attorney in New York City, as a staff attorney with the Puerto Rican Legal Defense and Education Fund, Inc., in New York City, and more recently as a professor of law at Rutgers University School of Law with responsibility for civil rights litigation. My activities have been largely in the Puerto Rican community and my comments today are in that perspective.

People often ask, especially in the Northeast, "How are the problems of Puerto Ricans different from those of blacks?" Well, there's no short answer to that question.

Blacks have been struggling for decades to obtain fair, decent, and integrated housing in the United States. Their struggle has been a difficult one. Not only did they have to overcome the problem of individual and institutional bigotry, but when all was said and done there was still the difference between black and white. Only until the late 1960s did any visible change come about—and that was in the South. Most people familiar with the movement recognize that during this period it was spearheaded by blacks, whose names need not be repeated today.

Meanwhile, in the Northeast there was the Puerto Rican community. This group, which came to the United States in ever increasing numbers after World War II, brought with them not only the same "color handicap" as the blacks, but other unique characteristics centering in part around their native language and their historically rich culture.

These were not just any persons coming to the United States seeking to assimilate into the "melting pot of the promised land." These were citizens, like you, who sought to exercise their constitutional right to travel throughout the States. The relevance of this is clear. They, as I, were not required to give up their language and culture to become American citizens. They were born citizens, not by design or choice, but by being born Puerto Rican.

It is in this context that Puerto Ricans came to

America—to seek and never find equal housing, education, and employment. The advances made by blacks during the last 1960s civil rights movement did not redound to the benefit of the Puerto Rican community because the Puerto Ricans brought with them problems theretofore unknown to the black community.

This is not to say, of course, that Puerto Ricans do not have some of the problems of blacks as regards fair housing discrimination. Puerto Ricans too are victims of steering, blockbusting, and other related practices. But their problem also goes further and can be summed up in one word—exclusion.

I was recently involved in a private Title VIII investigation in Hartford County [Conn.] and the surrounding area. The investigation revealed a classic pattern and practice of steering with respect to black applicants for single family housing.

In the Puerto Rican communities, the results, however, were much more startling. Puerto Ricans were totally and effectively excluded from any and all decent housing markets in the greater Hartford area. Where blacks were steered, the Puerto Ricans never got inside the door. Where blacks were blockbusted, Puerto Ricans never got a block.

The record substantiates these charges. They showed that in the membership of the Greater Harford Board of Realtors there was not a single Puerto Rican realtor, and all indications pointed to the fact that the board actively denied or discouraged them from applying. Even brokerships, licensed by the State real estate commission, were unavailable so that as a result there were fewer than six Hispanic brokers in the greater Hartford area.

Even further, real estate concerns consistently refused to advertise decent housing in the Spanish language press, radio, and television.

In the end, the Northeast pattern merely repeated itself. Puerto Ricans were left with the housing scraps already rejected by blacks who have moved to better neighborhoods.

This same pattern and practice of housing discrimination is repeated every day in New York, Massachusetts, Connecticut, and New Jersey. More than any other group, Puerto Ricans are excluded from the housing and mortgage money market.

This exclusion is not only conducted and perpetuated by the private sector but by governmental agencies as well. A typical example can be found in New Jersey.

The State division for civil rights, a Title VIII enforcer, conducted a 2-year investigation into housing discrimination in the sale of over 1500 single-family dwellings in the suburban Parsippany-Troy area. Interrogatories were submitted by the division asking the ethnic breakdown of the applicant and owner pool. After obtaining both black and Hispanic statistics, the division issued a final order imposing an affirmative action goal of 10 percent minority ownership.

The shocking point was, however, that the order specified that the only minority was black and that the goal was to obtain at least 10 percent black ownership. Puerto Ricans were completely and totally ignored. How does one account for this? Is it ignorance, institutional racism, or just insensitivity?

What can HUD do? It can and must take immediate steps to insure that the affirmative goals of Title VIII are carried out and implemented. HUD can no longer wait for citizen complaints to initiate an investigation. Many Federal courts have recognized that HUD has a duty as the primary enforcer of Title VIII to take bold steps to eradicate the blight of housing discrimination in the United States. In this regard and in light of the severe and dire need in the Puerto Rican and Hispanic communiites, I would recommend that HUD:

1) Establish with the department a Latino task force akin to that already in existence within the EEOC for general litigation. This task force would study indepth the housing needs of Latinos in the United States and recommend guidelines for the treatment of Latino applicants to the housing market.
2) Promulgate regulations which would permit HUD independently to fund law schools and other public interest concerns for the purpose of conducting Title VIII litigation addressed to the housing needs of the Latino community.
3) Embark on a national publicity campaign geared at reaching the Latino community and educating

them as to the scope of Title VIII and the power and desire of the department to end housing discrimination.

MR. HOLBERT: You suggest that, with respect to the Puerto Rican experience in seeking housing, the matter is one of exclusion as opposed to discrimination or segregation. Would you indicate how or by what approach you have arrived at the concept of exclusion as opposed to discrimination?

MR. RIVERA: The reason I chose the word exclusion was not only based upon my experience in Connecticut, but [also] in investigations I conducted in New Jersey and in New York. I found that even though exclusion is a type of discrimination (just like blockbusting or steering or any other practice), exclusion is not an experience that the black community is suffering today.

When I talk about exclusion, I am talking about total and complete deprivation; going across the board in every level of the housing market starting from financial institutions that refuse to give any indication to the Spanish speaking community that any money might be available for any project having to do with living. It's not even a matter of rental, buying, buying single-family, buying more than one single-family house. There is no money available for the Spanish speaking community.

In the housing market, real estate concerns refuse consistently even to recognize the existence of the Spanish speaking community in their advertisements. And I'm talking about major real estate dealers in all of these States that refuse to advertise, refuse to reach out. These forces joining together have perpetuated the invisibility of the Spanish speaking housing market, and in that respect, they join all the Title VIII practices into one large practice which I have chosen to call exclusion.

MR. HOLBERT: You make reference to the existence of six Hispanic brokers in the Hartford area. How were you able to deal with the existence of six Hispanic brokers, when at the same time you speak of exclusion or nonparticipation. What do they sell? And how do they get it financed?

MR. RIVERA: Saying that there were six Hispanic brokers in a sense is an overstatement of what their actual function was in the State of Connecticut. In our investigation, we came up with six persons who technically were people who were selling or attempting to sell in the housing market of the Hartford County area.

What we found, however, was that these six persons were not able to make a living. The reason why they weren't able to make a living fell into the same classic pattern that the applicants had. People would not list with these brokers. The major concerns had effectively blackballed these Hispanic brokers—a similar problem that blacks who are brokers face in the Hartford County area. They had effectively blackballed these persons so that they weren't able to get houses to put on the market. They were nominally brokers, but unfortunately they were not capable of maintaining themselves as brokers, and most of them, when we found them, were also participating in other functions in order to make a living.

MR. HOLBERT: You suggest that guidelines be developed which would have special application to the Spanish speaking or Hispanic community. The existing guidelines—which the State of New Jersey has promulgated and those guidelines which HUD has promulgated—all have application to persons who are classified as minority. You would, however, suggest additional ones.

Would you care to indicate what areas these guidelines ought to approach that are not currently dealt with through advertising, by poster or affirmative marketing, under either the State or the Federal guidelines.

MR. RIVERA: Recent events in the city of Newark in New Jersey are testimony to the fact that even a city which has a black administration, a black police director, and significant black people throughout the city bureaucratic structure, is not by its very nature sensitive to the needs of the Spanish speaking community.

During the month of September 1974, starting around Labor Day, there were a series of disturbances lasting approximately a week and a half in the Puerto Rican community of the city of Newark. At that time the city administration, headed by Mayor Gibson, indicated that the precipitating cause of the disturbances was an accident or an incident that occurred in a city park.

Within one week after the disturbances occurred—and they were still occurring a long time after the incident—it became quite clear to everyone that the issues involved in the Newark disturbances were the classic issues: housing, education, and employment. These were the three bread and butter issues of blacks in 1967 when the disturbances occurred in Newark, and they are the same now in the Puerto Rican communities.

The city would like to think, and this is true of many cities, that disturbances, riots, call it what you want, are caused by some incident, some turmoil, some short-term problem in the minority community. And it has always been true, historically and otherwise, that the problems have a deeper cause.

One of the significant causes in the city of Newark

is the housing crisis, not just from a building and development perspective, but from the conditions which the city allows its citizens to live in, the State allows its citizens to live in, and ultimately, the Federal Government allows its citizens to live in.

What is unique about Newark is that Newark succeeded in one fell swoop in destroying the myth that the black advocate is automatically the Puerto Rican advocate. It just is not so. You have a mayor who seems to have been responsive to some of the needs of the black community and city of Newark, but who has totally, however, ignored the Hispanic communities. The result is that the city of Newark still in many places looks like Berlin after World War II, and Puerto Ricans are moving in to what the blacks are moving out of.

And that's the problem that I'm trying to pinpoint—that the department must be flexible in its enforcement of Title VIII, and must recognize that maybe in the East it's Puerto Ricans, maybe somewhere in the Midwest it may be Native Americans. But there will be groups who are at the absolute bottom of that housing market, who need the special attention of the department, and, that best can be done through a task force vehicle that will allow the department, for an interim period, to address itself to specific and dire needs of a community.

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MR. HOLBERT: Our next witness will be Florencio Linares, the Deputy Executive Director of the New York City Commission on Human Rights.

MR. LINARES: Puerto Rican and other Hispanic Americans constitute one of the commission's major constituencies, and are, of all the large ethnic communities in New York, the most deprived. The annual middle income for Spanish speaking Americans in the New York area in 1970 was $6,541, well below the median incomes for whites and blacks alike.

Puerto Ricans tend also to have higher unemployment figures and higher concentration in low-paying jobs. Their school dropout rate presents a real barrier to economic progress. In New York City only 17 percent of Puerto Ricans over 25 have completed high school, compared with about 30 percent of both whites and blacks.

These conditions and the language difficulties encountered by some have impeded the growth of the Puerto Rican middle class. Economically less advantaged, Puerto Ricans tend to push less for the better housing that can be found in integrated areas, and have tended to have had less direct experience with the blatant evidence of housing discrimination. In addition, many Puerto Ricans emigrating from the island tend to seek out in New York people from areas with their own close-knit communities, or at least from their own island have settled. This, too, makes them more unlikely to seek out housing in areas where they would encounter resistance.

Finally, although there are some large concentrations of Puerto Ricans in ghetto areas or barrios, such as the southeast Bronx or the lower east side, it is not well known that Puerto Ricans have settled in many smaller communities throughout the city—often, although not always, adjacent to black communities. As a result, Puerto Rican residents in New York are spread throughout the city in clumps. There is no such a thing as a Bedford-Stuyvesant or a central Harlem. Thus, for Puerto Ricans as a group, integration has a meaning different than that for other groups.

Many of them are still seeking, not so much access to integrated housing, as access to decent housing. As a result, of all housing complaints brought to our commission, only about 15 percent are brought by Puerto Ricans and other Hispanics. On the other hand, we do get many inquiries on housing problems not related to discrimination. Even though you can always argue that is discrimination in itself, these complaints are outside our jurisdiction. In fact, the commission has long had a Puerto Rican Hispanic affairs unit to deal exclusively with just such nonjurisdictional problems of Spanish speaking persons.

These nonjurisdictional problems are problems such as no heat, holes in the wall where the rats and cockroaches sneak in, no hot water, and sometimes not even cold water, and those problems, unfortunately, do not come under our jurisdiction.

MR. HOLBERT: You have had a commission here in this city since 1958, and you indicate that approximately 15 percent of your complaint load comes from the Spanish speaking community. We are concerned, at this department, in trying to utilize to the maximum extent those resources which we have available. What recommendations would you make with respect to the manner in which complainants, who are Spanish speaking, are dealt with from the standpoint of processing their complaint if there has to be or if there should be any difference in the approach?

MR. LINARES: Well, the big difference in the approach is, one, language—there's a misconception. Everybody takes for granted that because your name is Sanchez or Rodriguez, you better get a translator. Well, that's not the case all the time. Sometimes the person named Sanchez or Rodriguez can speak the English language much better than somebody named Robinson or Wallace, or what have you.

But we do get those cases of people who either speak

no English at all, or who though they may speak it, nonetheless on something as serious as a complaint in discrimination, they don't feel they understand it enough; they want a translator.

Two is simply what I had explained before. Puerto Ricans and other Hispanics don't really come to the commission to complain too much about housing. It's very simple. If you don't make the money to be able to afford the apartments that are very well heated, very well lit, where you have a superintendent 24 hours a day; if you don't make the money to take over those apartments, you won't be discriminated against. It's as simple as that.

In 1970, 194 jurisdictional complaints were filed with the commission in housing—only housing—37 of them or 19 percent approximately, were Puerto Rican Hispanics. In '71, there was 160 overall cases, 26 or 15 percent were Puerto Rican Hispanics. In '72, 114 cases, and 19 of them were Puerto Rican Hispanics, and in '73, only 88 housing cases were filed overall; 12 of them were from Puerto Rican Hispanics. And so far, up to July 1974, 43 cases in housing were filed, 6 of which were Puerto Rican Hispanics.

So the complaints are coming down. It could be said that the reason they are coming down is because not that much housing is being built anymore. The entrenched whites, those people who are living in the very good five story walkups and six story walkups, may be under rent control; these people don't want to move out. Why should they? Rents are high, not only for Puerto Rican Hispanics, but they are high for blacks and other whites also. If they refuse to move out because of the rentals that are being charged nowadays, that means there's no room for us to take over what they're leaving behind. So we tend to stay very static in the South Bronx and East Harlem, in other areas.

And also—I may have some disagreement from the crowd—but we Puerto Ricans are not like blacks in the sense that we don't recognize or we refuse to recognize discrimination when it stares us right in the face. A lot of Puerto Ricans will come to the commission and say that, listen, I was not given this apartment by the renting agent, the superintendent, or the landlord because they didn't like me.

Well, as you know, that's not good enough for us to take a case. So if our investigator says, "Was it because you were Puerto Rican?" "Oh, no, no, it's not because of that." And, thank goodness now that we have the Puerto Rican investigators, we have managed to let them see that discrimination does exist.

But, it's very, very hard to convince a Puerto Rican that he has been discriminated against, because to some extent this is something new to him.

MR. HOLBERT: You (suggest) the probability that Hispanics do not complain in part because they do not recognize discrimination.

MR. LINARES: In part, yes.

MR. HOLBERT: In part. You established a large problem when you suggest that income limitations make it difficult in a time of constrictive availability for Spanish speaking persons to go out and seek housing and thus encounter discrimination.

MR. LINARES: That's correct.

MR. HOLBERT: But then your statistics, at least from my vantage point, may tend to discount part of what you're saying, because of the decline in the number of complaints even though the facility or the ability of your commission to serve is improved. Would you comment?

MR. LINARES: You have to look at even the most broader picture. When I quote the number of cases, these are only housing cases. Employment cases—it's nearly seven or eight times more than housing cases. Most of the people who come to complain to the commission, at times like these, where the economy is not what it should be, come for employment. They are not interested in moving too much at this time. It's too big an expense. They're interested in getting a job and holding one.

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MR. HOLBERT: Our next witness will be Ms. Phyllis Spiro.

MS. SPIRO: I'm Phyllis Spiro, and I'm a specialist for the Open Housing Center of the New York Urban League.

For 10 years, our center has been the major private organization to which minorities have come with complaints of housing discrimination in New York and the surrounding suburbs. As a result, we have a unique knowledge of the barriers met by Hispanic Americans in their efforts to achieve equal opportunity in housing.

It is unlikely that HUD is unaware of the vast inequities in this field. It doesn't take sophisticated research methods to know that large portions of our city remain overwhelmingly white, with minority families locked out of the areas by a combination of forces: the multiple dwelling landlord, the homeowner, the real estate industry, and the bank, each using its power on its own level.

In terms of statistics, the Hispanic person is not always regarded as such. It would be easier to more clearly define the situation if this were so. But our governmental agencies deliberately add to the confusion by inconsistency. When determining the Hispanic population of a given area, depending upon

who compiled the figures, you might find a Hispanic person grouped with whites, or blacks, or others. If [they are] over a certain number in a given area, Puerto Ricans are sometimes given a category of their own.

Our agency has fought an unending battle in cases of individual discrimination, and we will continue to do so for every person that comes to us for assistance. However, the steady pace of complaints has not changed in all these years. If anything, it has intensified as more people become aware of their rights to equal access.

MR. HOLBERT: For purposes of the record, what period of time are you speaking of?

MS. SPIRO: I'm talking about from the time our program started in 1963, before Title VIII, up to and including now.

MR. HOLBERT: Thank you. Please go ahead.

MS. SPIRO: Title VIII of the 1968 Civil Rights Act is only as good as its enforcement and implementation. Over the past several years, we have been able to make use of its tools that have effectively opened up thousands of units of good housing previously denied to minority persons.

By presenting fully documented cases of discrimination to the Department of Justice for patterns and practices suits, suit was brought against the Lefrak organization in 1970, and the current case

against Trump Management is going to trial next week. This statute, if properly used on a wide scale throughout the housing industry, can achieve in a relatively short time what would otherwise take several lifetimes to accomplish. In addition, individual use of Title VIII by suing privately in Federal court can result in large cash settlements for damages and attorneys' fees. Knowledge and use of this tool is extremely limited. As it comes into more frequent use and publicity of the settlements is made, we believe that this can and will act as a deterrent to many in the real estate industry who have ignored our fair housing laws heretofore.

The vast homeownership market is subject to constant discriminatory practices; refusal to reveal listings, steering, inflated prices, redlining by mortgage institutions, in addition to the horrendous practices used by officials of FHA, some of which were exposed not too long ago. The net result is that unless Title VIII is more vigorously enforced by governmental agencies rather than relying only on private groups like ours to bring evidence, the 1968 act will take its place with the other legislative measures of the past; long on words and short on results.

Reliance on voluntary compliance with our fair housing law is at best naive. At worst, it places our institutions in the position of partner to the crime of discrimination. Since the real estate industry invariably cites its agreements as evidence of compliance with the law, when private groups like ours do submit evidence of noncompliance, the perpetrators confidently explain away the minor slip with knowing assurance that they will be politely offered another voluntary agreement to sign. The crime is absolved, and it's business as usual the next day. This has got to stop.

Each governmental level has power to initiate action on its own, and HUD has the responsibility and the duty to see that they use this power to its fullest capacity.

Up to this point we have been talking primarily about the private market. We wish to address ourselves now to an area in which governmental agencies have a much more direct role in the discrimination process against Hispanic and other minorities. This is the area of governmentally-aided, supervised, HUD-insured middle-, moderate-, and low-income housing developments. Hundreds of these developments exist throughout our city and have effectively barred black and Hispanic applicants both in the initial rental procedures and in subsequent vacancy turnovers. Waiting lists in many developments are contrived and falsified at worst; rarely, if ever,

updated and monitored at best. Supervision of such lists is cursory, and control is left to managing companies and boards of directors in the case of coops.

Although New York State and city agencies do publish a directory of government-aided development, they are not updated frequently enough, they are not widely available, and more importantly, many minority persons are not aware of their existence. HUD does not even compile a directory for localities, with the result that there are HUD-insured developments in our area whose practices go unchallenged. This leaves a minority person at the mercy of the discriminatory practices of developments that wish to keep their overwhelmingly white tenancy status quo. The waiting list has become a wicked weapon in the hands of managing companies and co-op boards. HUD has the unique opportunity here to directly effect change in an immediate and productive way.

In order to insure compliance with Title VIII, we recommend that HUD immediately set up a central registry with participation by State and local agencies to which all governmentally-aided developments would indicate their current occupancy by standardized ethnic composition figures and report all their vacancies as they occur to one central source. This information could be computerized and made available to the public, at the local level, in a variety of ways. Our organization would be ready to offer our suggestions in planning this system.

While the private market desperately requires the same sort of reporting and monitoring system, we understand that priorities are necessary, and the first place to start is with housing that is within your direct jurisdiction and control. However, we are not talking about future visions. We are talking about starting tomorrow. HUD is the only agency with the scope and means to accomplish this arrangement on a national scale. Only the commitment to fair housing is required, and the rest will follow. We in the open housing field await the signal that you are ready to give our laws some meaning.

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(Jacques Wilmore is the Regional Director of the Northeast Office of the U.S. Commission on Civil Rights.)

MR. WILMORE: We think that the most important problem, whether we're talking about blacks or we're talking about Puerto Ricans or Chicanos, is the systemic discrimination—that is, the mechanisms that are built into the system which deny persons equal housing opportunity. I think these are far more important than the old style, overt discrimination.

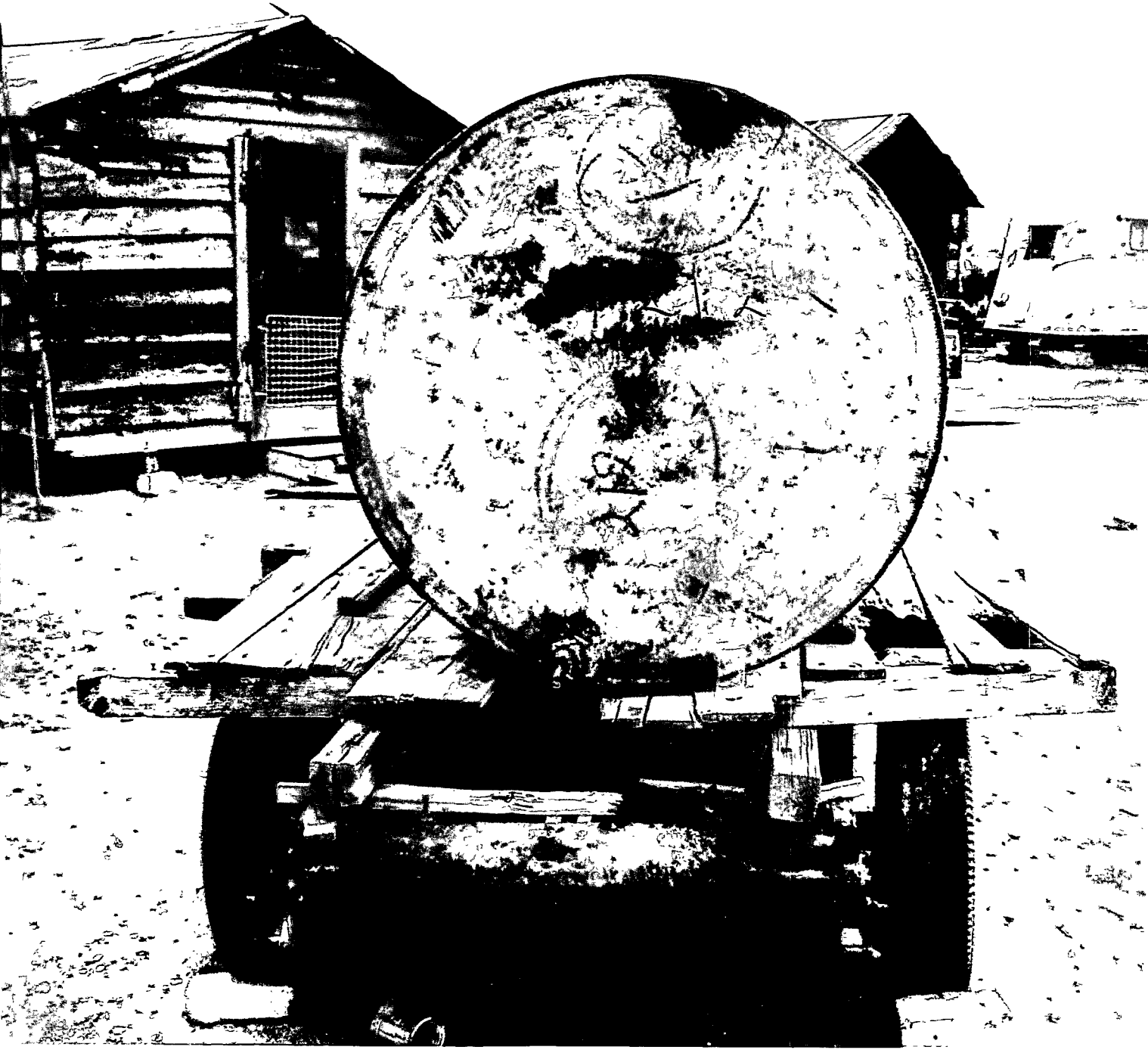
If you make up the rules of the game right, as you know, you don't have to discriminate. You can legally exclude persons, and in our experience Puerto Ricans in this region largely have been cut out by the rules; they have not effectively participated in the planning for housing, and the rules for the development of housing exclude them. We're concerned, therefore, not so much with what you're concerned with. I realize we're coming at it from different points of view, to some extent at least.

But I wonder to what extent your compliance agency, for instance, has impact on the total operation of HUD in terms of seeing that the rules of the game are written and implemented in a way which will be of maximum advantage, rather than minimal advantage, to minorities in general and Puerto Ricans in particular.

MR. HOLBERT: Let's examine that in this context. A Texas judge writing in New York in one of the series of Lefrak cases brought by private persons, said that persons in this city who are on welfare, who happen to be in the main mothers on welfare, who had to have guarantors—that is, persons who would underwrite a lease application—that such persons were being denied their civil rights because of the extra burden imposed on them in going out to find a guarantor whose income would be sufficiently high to, in effect, pay for the guarantor's rent as well as the welfare applicant's rent. This Texas judge took the view that [this] practice was a violation of the fair housing law. And, we've heard, just before you, comments or statements of that sort. This kind of activity is the basis for my question. Where, as you see it, is that dividing line between the economic problems of exclusion and the problems of discrimination that is protected under the fair housing law?

MR. WILMORE: Well, I think that in large measure the economic problems are the ones today which tend to exclude both blacks and Puerto Ricans from equal housing opportunities. To me, that's just stating the problem. I think if we were to eliminate the economic problems, we'd still not have equal employment opportunity, but this gives us a convenient, legal, and polite way to exclude persons.

I think that what we have to look at is the end product. If blacks and Puerto Ricans are not getting the housing, we have to look at what those obstacles are and try to eliminate those obstacles. Even though they may not constitute, in a direct sense, violations of the law, if they are obstacles which prevent minority group people from taking advantage of that housing, I think we have to do something about it. If the courts will do it, fine, but it would be better if it could be done administratively by the agencies which administer the laws.



DALLAS

MR. CHAVEZ: My name is John Chavez. I'm secretary-treasurer of the South Alameda (California) Spanish Speaking Organization or SASO for short.

Like most of the other witnesses I can only speak about our own personal experiences in discrimination and in our own local area.

Union City is primarily Mexican American farmworkers—it used to be something like 25,000—that have been displaced by automation. In later years it has been surrounded by white middle-class people fleeing cities of the Bay area, the San Francisco Bay area.

In 1965 a group of us formed ourselves into a nonprofit corporation under the corporate laws of the State of California to see if there was something we could do to alleviate the living conditions of the poor, the low-, and moderate-income in Union City.

We got options on a piece of ground, 24 acres, to build 180 units of Section 236 housing. We then applied to the city council for multiple zoning, which was very adamantly opposed, but under pressure by the then predominant people, the Mexican people, they acceded. We did get the required zoning but then the same city councilmen who were forced to do it turned around and initiated or instigated a referendum petition against the zoning. We knew that if this referendum election came about we were going to lose because most of the people, our constituency, were for some reason or another nonvoters, either because they were noncitizens or by tradition. So we appealed to legal aid for some relief to file a suit to enjoin the referendum.

Legal aid, of course, turned us down because they felt that this would be like using Federal funds to fight the local government and they were not able to help us because we were not considered rural.

We were by then a city. So then we went to the National Committee Against Discrimination in Housing, which is primarily a black organization, legally oriented, which has filed suits similar to the one we felt that we had. We took our case and they did file suit in Federal Court.

Our contention was that the referendum was racially motivated, and we felt that the local electorate did not have the right to decide whether these people should live there or not, that low-income people should live in a certain area of the city.

Well, the court did not agree with us. We were turned down and the court felt that we, in turn, were trying to deprive the voters of their right to vote.

And this went on for 3 years, one appeal after the other. We kept being turned down.

Finally, we went all the way to the highest court in our area in San Francisco—the 9th Circuit Court of Appeals.

We could never prove that the referendum was racially motivated, because they're not going to testify to that effect, especially not in front of a judge.

So we appealed once more on the grounds that the effect of referendum, regardless of its motive or its intent, was to deprive people of the right to live in the place of their choosing. We finally won. Incidentally, it was a landmark decision which has been cited by courts throughout the Nation in ruling against exclusionary zoning present in other cities.

MR. HOLBERT: We appreciate your explanation from the standpoint of a person who was involved in this project—there were approximately 600 units there is one question. You originally set out to build some low- and moderate-income houses.

MR. CHAVEZ: Yes.

MR. HOLBERT: Would you be kind enough to tell us whether or not you've been successful in getting the houses built.

MR. CHAVEZ: Yes. I'm sorry. By the time we settled the court case, a period of something like 4 years had transpired which made the project almost economically unfeasible. So in order to get the housing built we had to sell something like 90 percent of the project to another developer so that we could get the money, but we did get it. It has been completed.

MR. HOLBERT: What about the racial occupancy of the resulting housing? Have the people who originally lived there been able to move into the housing, that is the low- and moderate-income Mexican American families who originally lived in Union City. Have they been able to occupy the houses?

MR. CHAVEZ: Yes. Not as many as we would like because, see, now the maximum is 25 percent. The units are subsidized. It's not much when you're talking about 180 units. When we decided to move—to build this project—there were approximately 600 units condemned as unfit to live in and the city could not even afford the condemnation procedures because there was no place to put those people.

MR. HOLBERT: But some were helped?

MR. CHAVEZ: Yes.

DR. TOOTE: I would like to ask if you may state approximately for the record—if you feel you should not please so indicate—approximately what were your costs for your legal suit? How much money did it cost?

MR. CHAVEZ: In excess of $50,000, which was all borne by the National Committee Against Discrimination in Housing since we were nonprofit and obviously had nothing.

DR. TOOTE: I simply wanted it on the record. Thank you.

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MR. HOLBERT: Our first witness this morning will be Mr. Ed Lucerno of Denver, Colorado. *(Ed Lucerno, a CPA and member of the Federal Reserve Board, Denver branch, appeared as an individual.)*

MR. HOLBERT: I have one question, Mr. Lucerno: is it possible for a Mexican American or an Hispanic person with credentials, as you described it, to secure a loan? You indicate, however, that mortgage loans are difficult to come by where persons do not have the credentials.

MR. LUCERNO: Well, Mr. Holbert, let me give an example. If I'm a Federal employee, GS-12 or GS-13, I have no problem qualifying for a $20,000 house. OK?

MR. HOLBERT: All right.

MR. LUCERNO: But if you were an Anglo GS-12, 13, making $25,000-30,000, your lending capacity would probably be two to two and a half times that.

MR. HOLBERT: You're saying that, in addition to the ability of the person with credentials to get a loan, Mexican Americans do not have the ability to get the loan which an Anglo would be able to secure in Denver.

MR. LUCERNO: The Mexican can probably get one to one and a half times that average income. The biggest problem we have, though, is in the moderate income area where a lot of our people are at $600 a month, $700 a month with large families, and the lending institutions challenge our standard of living. Where in the Anglo community they send their sons to the ski slopes and they spend more for entertainment, things like this, well, we can't afford it. We divert most of our income to housing and this they do not take into consideration.

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MR. HOLBERT: Our next witness will be Miss Diana Smith. *(Diana Diaz Smith is a program analyst and administrator of the Work Incentive Program for the State of Utah. She testified in an individual capacity.)*

MISS SMITH: Thank you, madam chairman and gentlemen, for allowing me the opportunity to relate the methods of discrimination that were used against me by lending institutions and two real estate brokers.

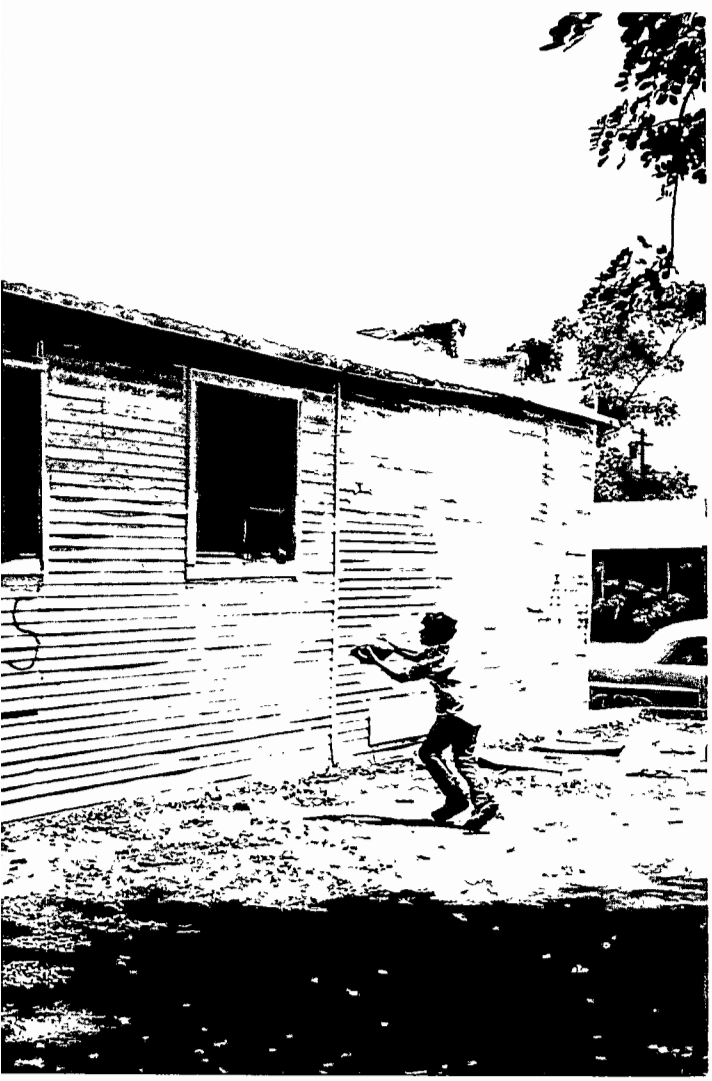
I understood your main concern today is discrimination against the Spanish speaking. My case seems to be twofold. The discriminatory practices which I experienced were caused not only because I am a Chicano, but also because I am a single female. Being Mexican American is certainly a detriment in attempting to purchase a home, but being a minority and a single female is a double strike against me.

Strike number three was the fact that I had my black real estate agent with me.

My first experience began in August of 1974 when I attempted to purchase a condominium through a savings and loan association. The condominium is located in one of the most desirable areas of Salt Lake City, only several blocks from where my 4-year old son attends nursery school and day care center. I made application for a loan of $25,000.

My salary more than covered that type of loan and at that time I informed the credit officer that I had filed for bankruptcy—approximately $1,000—in 1965. The bankruptcy no longer showed on any of my credit reports and there was, to my knowledge, no way they could find out that had happened, but so I'd not be rejected for misinformation, I told them about it. Since the time of the bankruptcy, all my credit had been prompt and I had no credit problems within the last 9 or 10 years, and I considered myself a professional female.

The loan officer indicated that my application would be given a preliminary processing, and she would call me that same afternoon indicating the acceptance or rejection by the credit committee. And one month later, after repeated telephone calls to the lending institution, several humiliating experiences with the credit bureau, and abusive language from employees of the savings and loan association, the loan was rejected.



The reason they gave me at that time for loan rejection were that their policy on bankruptcy required that loans not be approved unless the bankruptcy was filed over 10 years ago.

I knew she had told me when I applied for the loan, they told me within a 9-year period. Well, mine was a little over 9 years, and about one month from being 10 years, so the second time that they tried to reject me they said it was over a 9-year period. The third time, they indicated the bankruptcy must be over 10 years old.

The second reason they gave me for rejecting me [was that] my length of residency in the State was insufficient. I have maintained permanent residence and paid taxes here in Utah since 1962.

The third reason: my length of employment was too short. I have worked within my present field of employment since 1966 and I have maintained permanent, full-time employment since 1961. I have had one major period of unemployment within the last 13 or 14 years. I had a baby and I was off work for 3 days.

Fourth, the loan association's inability to obtain credit reports from any of my creditors. They told me that they called my creditors repeatedly and my creditors would give them absolutely no information.

I believe that all of these reasons to be totally invalid and arbitrary decisions. I am well aware of white males moving from other cities to take employment in executive positions in Salt Lake City and having no problems obtaining mortgage loans or finding adequate housing for their families.

I also followed through with all of my creditors and found that the lending institution had not requested a complete, updated credit report from the credit bureau and that my creditors had no records of credit information being requested even though it is their policy to make documentation of all requests for credit reports.

There were other indicators that made me aware of the loan policies being different between males and females and minorities. For example, a male who has rental property is allowed at least 50 percent of that total income to count towards his income. There is no guarantee that the property will be rented at any time nor any indication that total expenses will not exceed total income. Yet a female's child support income is not considered during application for a mortgage loan.

With the percentage of working mothers increasing in the United States, most of them being left with children to raise; the percentage of female heads-of-household increasing in the United States;

and the greatest percentage of minority female heads-of-household increasing every year, disallowing child support income has a disparate effect on mothers trying to provide a decent home for themselves and their children.

Second: even though I had maintained full-time employment and residency in the State of Utah for over a 12-year period, this was considered insufficient for the purpose of obtaining a mortgage loan. Their excuse was my taking a year's leave of absence to accept a research fellowship from the Ford Foundation to further my education. In a white male this would have demonstrated drive, determination, and motivation. In a minority female this was considered instability.

As I realized that I was getting the run-around with the lending institution, I began to search for another home in the same general area. There were few homes for sale for less than $30,000 and my search was not too productive.

On September 6, 1974, after having seen a home for sale and inspecting that home with my real estate agent, I made an offer for the full listing price of $23,000 FHA. My realtor tried to present the offer to the seller, but the listing office refused to present the offer, saying that a similar offer had been previously rejected. The office manager at the listing office discouraged my agent from presenting another offer until FHA appraisal had been received, indicating he would notify us immediately as soon as the appraisal had been received.

I was to be out of town on business for the next few days. So I wrote a second offer and went to see the seller to indicate that if he didn't want to sell FHA or whatever that I was willing to meet his terms. That was the only house for less than $30,000 in the area, so I wanted it and I indicated that to him. I also indicated I was living out of a suitcase, that winter was coming, and I had to get a home for myself.

The seller assured me that I would be able to buy the home. He said there would be no problem and that he would contact me and that he would have this real estate agent contact my real estate agent as soon as the FHA appraisal was received.

I returned to Salt Lake City two days later to find that the home had been sold and that my real estate agent had not been notified and was not allowed to present my second offer. I also found out that the listing company had notified a third buyer after the FHA appraisal had been received and this party, who were white and a married couple, had been allowed to present their offer.

In questioning both the seller and the selling agent at that time, they both indicated to me that they did not believe I could afford the home.

On September 16, 1974, after having read an advertisement in the newspaper for a duplex for sale for $25,000, I saw the unit by myself and made an offer to purchase the home. The initial contract with the real estate company selling the home was by telephone. He made several references at that time about my husband and I made no comment.

At this time I was quoted a price of $25,000 and the terms. The offer was prepared exactly as listed according to the newspaper advertisement and the selling agent's instructions.

The following contact was with—and this was the initial first person contact—the selling agent and my real estate agent, who was black, and myself. The offer was presented giving the sellers 24 hours to respond. One week later neither my agent nor myself had been able to obtain a response from the selling agent. When I was finally able to reach the broker for the listing office I was told the following: The sellers did now not wish to sell FHA, the price in the newspaper had been in error and that it was actually $1500 higher, and that cash would be the only acceptable offer.

I asked the selling broker at that time if he knew of any place where I could obtain conventional money. I had applied for a FHA loan by then and had been accepted. And he said no, he knew of no place where he could get conventional money, so I said, "Well, how are you going to sell the home conventional if there is no place to get conventional money?"

He says, "Well, we'll just hold it. We're not going to sell it." I asked him. "What's the problem?" "The problem is the discount points."

Anyway, the selling agent was very emphatic about the owner not wanting to sell FHA or VA at this time and I could contact them again in several months if the house had not been sold.

The duplex was subsequently sold VA to a white male.

Three months after I arrived in Salt Lake City I was finally able to purchase a home. The home is located in the outskirts the central city area which is predominanately a black and Mexican American neighborhood.

I drive my son 40 miles each day out of my way to attend school. I pay a higher interest rate than I would have paid for the purchase of any of the other homes. My down payment was higher than I would have had to pay for the purchase of any of the other homes, and I do not have the advantage of income from the duplex.

reading and viewing

BOOKS RECEIVED

Crossing the Crest by Aubra Dair Ciccorella and Patricia Lee Ciccorella (Boston: Branden Press) 1975. An account of social and political change in America between 1962-72, with emphasis on the movements in behalf of racial minorities and the poor. 207 pp.

Genocide? by Robert G. Weisbord (Westport, Conn.: Greenwood Press) 1975. An investigation of the fear that family planning threatens the black population. 219 pp.

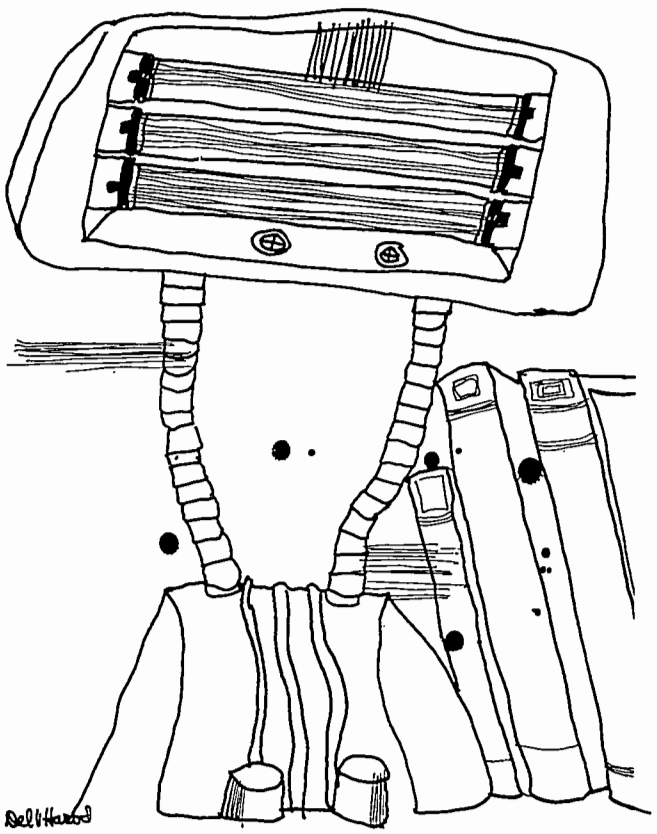
History of Black Americans by Philip S. Foner (Westport, Conn.: Greenwood Press) 1975. First of four volumes, this book covers "from Africa to the Emergence of the Cotton Kingdom" in 1820. 680 pp.

The Improbable Era by Charles P. Roland (Lexington, Ky.: University Press of Kentucky) 1975. An analysis of change in the American South since World War II. 228 pp.

Jury Woman by Mary Timothy (San Francisco: Glide Publications and Emty Press) 1975. The latest account from a juror who sat on a controversial case—in this instance, the trial of Angela Davis. 276 pp.

Indian Giving by Sar A. Levitan and William B. Johnston (Baltimore: Johns Hopkins University Press) 1975. An outline of reservation conditions, Federal aid, and future choices and problems (includes tables and charts). 83 pp.

Human Relations in the Military ed. by George Henderson (Chicago: Nelson-Hall, Inc.) 1975. Essay topics include race relations, women's equality, military justice, alcohol and drugs, health care, and civil service. 291 pp.



REPORTS RECEIVED

School Suspensions by The Children's Defense Fund (Washington, D.C.: Washington Research Project) 1975. An exploration of the problem of student suspensions, with special attention to the impact on minority children. 257 pp.

Desegregated Housing and Interracial Neighborhoods: A Bibliographic Guide by Mark Black (Philadelphia: National Neighbors) 1975. Intended for use by community organizations, public officials, private agencies, scholars and students, and ordinary citizens, this guide is practically organized under general headings and separates introductory material from specialized writings. 91 pp.

Provisional Estimates of Abortion Need and Services by Christopher Tietze et al. (New York: Alan Guttmacher Institute) 1975. A factual summary with data on the availability of abortions following the 1973 landmark Supreme Court decision. 88 pp.

Equal Employment Opportunity Report—1973 by the Equal Employment Opportunity Commission (Washington, D.C.: Government Printing Office) 1975. A report on the employment of minorities and women, compiled from data gathered by EEOC under the reporting system mandated by Title VII of the 1964 Civil Rights Act. unpaged.

COMMISSION REPORTS

Twenty Years After Brown: Equality of Economic Opportunity. Analyzes civil rights progress and problems since 1954 pertaining to employment, income, and public accommodations. Includes findings and recommendations. (Statutory Report) 83 pp.

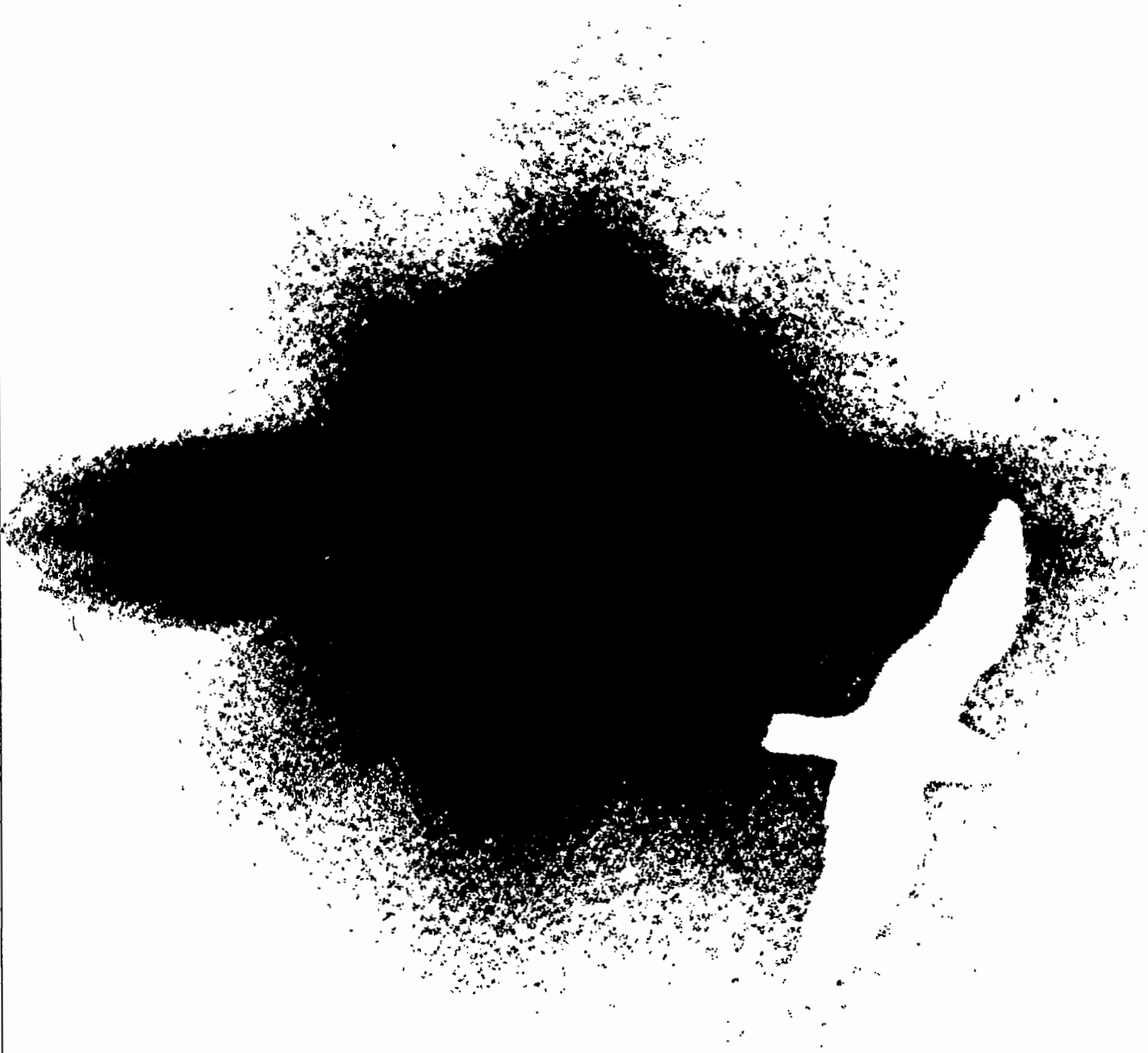
Twenty Years After Brown: Equal Opportunity in Housing. Examines housing discrimination issues since 1954, particularly legislation, Federal enforcement, court cases, exclusionary land use, population shifts, and housing conditions of minorities and female-headed families. Includes findings and recommendations. (Statutory Report) 188 pp.

Desegregating the Boston Public Schools. A report on the hearing held by the Commission in Boston June 16-20, 1975, with extensive findings and recommendations concerning local and national policy. (Statutory Report) 225 pp.

The Navajo Nation. A report on the first Commission hearing held on an Indian reservation, with chapters on economic development, employment, education, health care, and legal status. Includes findings and recommendations. (Statutory Report) 144 pp.

The Federal Civil Rights Enforcement Effort—Volume V: To Eliminate Employment Discrimination. An evaluation of the efforts of Federal agencies to ensure equal employment opportunity, including the Civil Service Commission, the Office of Federal Contract Compliance and the Wage and Hour Division of the Department of Labor, and the Equal Employment Opportunity Commission. Includes findings and recommendations. (Statutory Report) 673 pp.

The Federal Civil Rights Enforcement Effort Volume VI: To Extend Federal Financial Assistance. A report on the enforcement of Title VI of the 1964 Civil Rights Act by various Federal agencies in the Department of Agriculture, HEW, Department of Interior, the Department of Justice, Department of Transportation, and the Environmental Protection Agency. Includes findings and recommendations. (Statutory Report) 819 pp.



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