



# URBAN ACTION '93

POLICY ▶ TOXINS ▶ PUBLIC HEALTH ▶ HOUSING



# URBAN ACTION 1993

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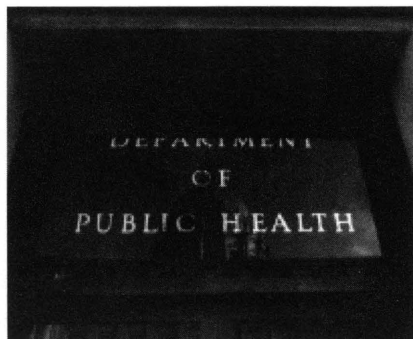
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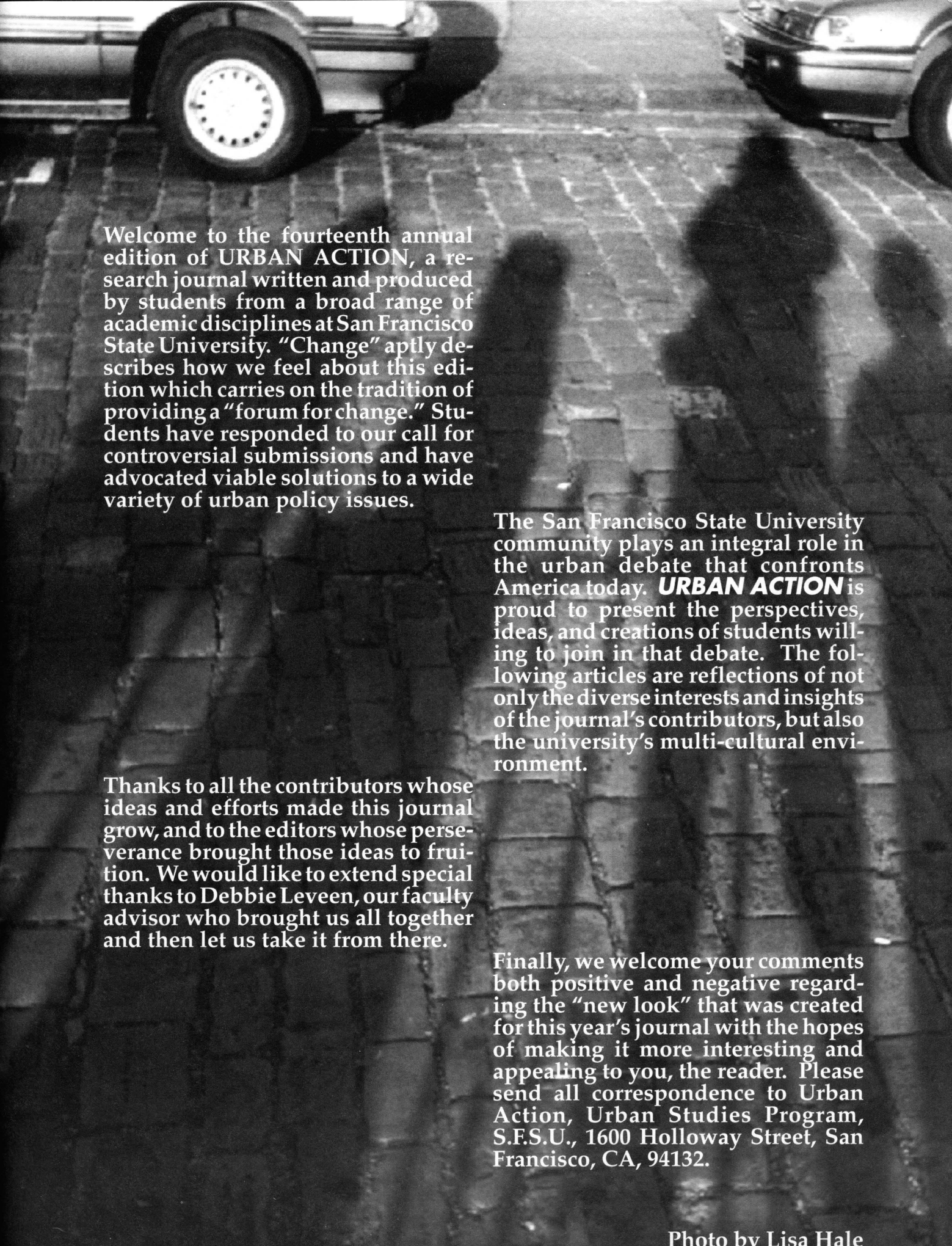
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A black and white photograph of a cobblestone street. In the upper left, the rear wheel and part of a car are visible. In the upper right, the front of another car is visible. Long, dark shadows of people and cars stretch across the cobblestones from the right side of the frame towards the left. The text is overlaid on the left side of the image.

Welcome to the fourteenth annual edition of **URBAN ACTION**, a research journal written and produced by students from a broad range of academic disciplines at San Francisco State University. "Change" aptly describes how we feel about this edition which carries on the tradition of providing a "forum for change." Students have responded to our call for controversial submissions and have advocated viable solutions to a wide variety of urban policy issues.

Thanks to all the contributors whose ideas and efforts made this journal grow, and to the editors whose perseverance brought those ideas to fruition. We would like to extend special thanks to Debbie Leveen, our faculty advisor who brought us all together and then let us take it from there.

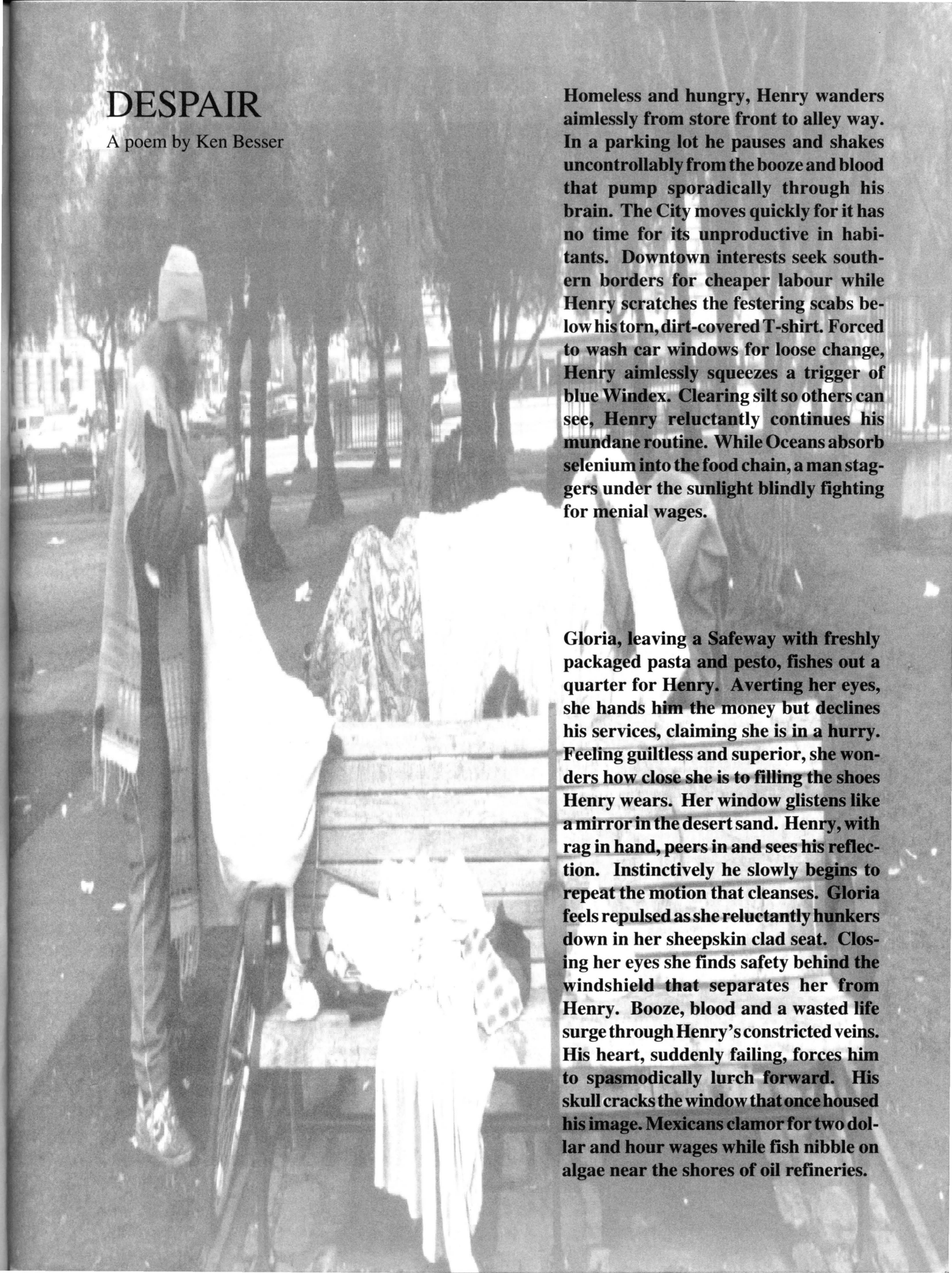
The San Francisco State University community plays an integral role in the urban debate that confronts America today. **URBAN ACTION** is proud to present the perspectives, ideas, and creations of students willing to join in that debate. The following articles are reflections of not only the diverse interests and insights of the journal's contributors, but also the university's multi-cultural environment.

Finally, we welcome your comments both positive and negative regarding the "new look" that was created for this year's journal with the hopes of making it more interesting and appealing to you, the reader. Please send all correspondence to Urban Action, Urban Studies Program, S.F.S.U., 1600 Holloway Street, San Francisco, CA, 94132.



# DESPAIR

A poem by Ken Besser



Homeless and hungry, Henry wanders aimlessly from store front to alley way. In a parking lot he pauses and shakes uncontrollably from the booze and blood that pump sporadically through his brain. The City moves quickly for it has no time for its unproductive inhabitants. Downtown interests seek southern borders for cheaper labour while Henry scratches the festering scabs below his torn, dirt-covered T-shirt. Forced to wash car windows for loose change, Henry aimlessly squeezes a trigger of blue Windex. Clearing silt so others can see, Henry reluctantly continues his mundane routine. While Oceans absorb selenium into the food chain, a man staggers under the sunlight blindly fighting for menial wages.

Gloria, leaving a Safeway with freshly packaged pasta and pesto, fishes out a quarter for Henry. Averting her eyes, she hands him the money but declines his services, claiming she is in a hurry. Feeling guiltless and superior, she wonders how close she is to filling the shoes Henry wears. Her window glistens like a mirror in the desert sand. Henry, with rag in hand, peers in and sees his reflection. Instinctively he slowly begins to repeat the motion that cleanses. Gloria feels repulsed as she reluctantly hunkers down in her sheepskin clad seat. Closing her eyes she finds safety behind the windshield that separates her from Henry. Booze, blood and a wasted life surge through Henry's constricted veins. His heart, suddenly failing, forces him to spasmodically lurch forward. His skull cracks the window that once housed his image. Mexicans clamor for two dollar and hour wages while fish nibble on algae near the shores of oil refineries.



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# Consumer Choice and Public School Reform

Written by Bethann Berliner

Edited by Maggi M. Morehouse

Despite the recent election of President Clinton, consumer choice promises to continue to play an important role in the policy debate about how best to improve schools. The motives and outcomes of school choice policies run counter to basic democratic principles and our nation's commitment to public schooling.

## THE CHOICE POLICIES

There is a sense of national urgency that something needs to be done to improve America's faltering public schools. Allegations that standardized test scores have fallen and are unacceptably low, that schools have become places of violence rather than nurturing havens, and that teachers are unprepared to teach students with diverse learning and social needs, have sparked a decade-long domestic policy debate.

Although "debate and experimentation involving the quality and improvement of American education have been both continuous and controversial since the nation's beginnings," the vitriol of the current demand for reform is rooted more deeply than a critique of classroom practices (Martin, 1991: 119). For some, what is most troubling is that school reforms have failed because the problems they aimed to solve are caused by more untenable societal ills. For others, reforms failed because the goals, the curriculum and instruction, and the governance of public schools did not satisfy consumer choices and the broader national concern to increase competitiveness in the world market.

The newly elected Clinton Administration faces the challenge of reconciling these perspectives. While former presidents Reagan and Bush supported the privatization of schools through choice policies, the Clinton position is still unclear. He describes choice as an "important" component to his school reform agenda, but qualifies this by noting that public monies supporting private schools "pulls out the rug" from under public schools (Miller, 1993: 17). And while he claims this is unacceptable he sends his daughter to a private school of choice. What, then, does the choice debate really mean for the future of schools? There has been a resurgence of school choice policies during the past decade of economic decline. There have been economic arguments both favoring and contesting choice, pitting

the various policy features of free market against public choice. The most basic argument centers on the veracity of consumer choice as a way to better meet the educational needs of all school children.

## ECONOMIC DECLINE AND THE CHOICE AGENDA

Barring the top 10 percent of the population, Americans have experienced a steady decline in their standard of living for the past two decades (Brown, 1991: 115). The loss of purchasing power has had a negative impact on both families and public sector services. The divorce rate has increased; the number of children living below the poverty threshold and in female-headed households has risen to alarming proportions. Fiscally strapped governmental services are unable to adequately meet the needs of the children in poverty. During this same period there has been a corresponding decline in the relative outlay for education and other social services. Other indicators of economic decline include increases in crime, decreases in home ownership, high rates of unemployment, the proliferation of low-wage jobs, the crumbling infrastructure, and the nagging federal deficit. Though the nation lacks consensus about how to renew its economic competitiveness, there is agreement that a well-educated citizenry is imperative to achieving that renewal.

Concerns about educational standards and the ability of schools to meet future economic and societal challenges has given Americans cause to re-examine their values and expectations of public education. As a result, educational policy since the 1970s shifted "from equity to excellence; from needs and access to ability and selectivity; from regulation and enforcement to deregulation; from the common school to parental



choice and institutional competition; and from social and welfare concerns to economic and productivity concerns" (Martin, 1991: 123).

This shift reinforced the former Bush Administration's endorsement of educational goals which included the restructuring of schools through consumer choice and the privatization of education, as well as some features of the emerging Clinton agenda.

The term school choice is variously used to describe many programs, policies, and proposals. The common programmatic feature is that parents have a greater degree of choice in selecting the schools their children will attend. The common theoretical feature is that schools have to compete for students in order to be chosen, and therefore will have an incentive to innovate, improve achievement, and control costs.

The current school choice movement is rooted in more than two centuries of economic thought (Coons and Sugarman, 1978). As early as 1776, Adam Smith's *Wealth of Nations* described schools as protected monopolies and static institutions because they lacked competition and incentives to improve. While Smith never offered details for his plan, he proposed testing teachers in the marketplace by giving families a subsidy to purchase services and reward efficient teaching. Thomas Paine's *The Rights of Man* (1792) explicitly proposed the use of vouchers both to improve schooling and to ensure a greater likelihood that all children, even those otherwise too poor to attend school, would have the opportunity to receive a public education. Half a century later in his celebrated essay *On Liberty* (1859), John Stuart Mill addressed school choice in the context of upholding the liberty of children. But neither the writings of Paine nor Mill were given much credence during the late 19th and early 20th centuries, as the nation moved toward a policy of compulsory public schooling.

It was not until the 1960s, when free market economist Milton Friedman (1962) revived the notion of his classical predecessors, popularizing school choice through the use of vouchers. As an advocate for consumer sovereignty, Friedman believed that by creating an educational marketplace consumer preferences would govern production and eliminate inefficiencies associated with the monopoly of the public schools. Following Friedman's theoretical lead, many policymakers and school reformers now advocate a market solution to the seemingly intractable problems facing schools.

Based upon the rhetoric and writing of supporters of school choice, Levin (1991) suggests the following reasons for its current importance as a policy option. First, he cites the argument that parents should have the right to choose the type of schools they want their children to attend in order to best reinforce the values and beliefs of the family. Second, even among schools of the same type there is wide variation in pedagogy, curriculum, facilities, and organization which parents should have the right to choose from to maximize their children's school preferences. Lastly, there is Friedman's free market view that concludes that increased competition

will pressure schools to diversify, use resources more efficiently, and promote achievement. The concern about achievement is primarily directed at the increasing number of poor, immigrant, and minority students at risk of academic failure because they lack the resources needed to benefit from conventional schooling.

Proponents of school choice like Chubb and Moe (1990) and Lieberman (1989) suggest that choice is gaining popularity because the tepid reforms of the 1980s

reinforce their belief that the problems of the schools cannot be solved as they are currently organized because the schools themselves are the problem. From this perspective, reforming teaching or learning, or the broader social context in which teachers and students interact is fruitless unless the entire system by which schools produce human capital is transformed into a private enterprise.

## THE DILEMMA OF COMPROMISE

Public K-12 schooling yields two general types of benefits: those to students and their families (private benefits) and those to society (public benefits). Families endorse schooling because of the private benefits their children receive, such as enhanced productivity, earning potential, efficiency in consumption, political participation, and access to information (Levin, 1969; Levin, 1987). They also consider schooling to be a private good because it functions to inculcate and reinforce family values.

Beyond satisfying these private benefits, public schooling serves the nation and local communities by promoting a common set of values and minimum levels of literacy, numeracy, and general knowledge needed to function in a democratic society. As a public good, schooling contributes to economic growth, cultural and

***Concerns about educational standards and the ability of schools to meet future economic and societal challenges has given Americans cause to re-examine their values and expectations of public education.***



scientific progress, and equality of opportunities for children from all backgrounds. There are significant positive externalities associated with schooling. Likewise, an educated citizenry is essential to the nation's overall welfare (Friedman, 1962).

Levin explains that "a basic incompatibility may exist between private concerns and the public functions of schooling" (Levin, 1987: 629). That schools are expected to satisfy both the right of parents to choose the experiences and values they want for their children and the right of a democratic society to use the common school experience to preserve its social, political, and economic institutions creates a potential dilemma.

Since the mid-19th century, when states established common schools and compulsory attendance laws, this dilemma has been addressed through a compromise that permits some degree of choice into the public school system. Families could send their children to private schools or move residences in order to attend schools in preferred districts if they had the resources. Public schools were also designed to be local institutions, financed by local wealth and characterized by the community's preferred curricula, pedagogical approaches, and organizational structures.

By the 1960s, there emerged a strong current of reform aimed at reducing funding disparities; supporting af-

***Choice advocates view public education as an inefficient and unresponsive bureaucratic monopoly because it is free from the forces of competition.***

firmative action in hiring and programming; and ensuring a quality education for all regardless of gender, language, race, and family income. The push for equality and uniformity, Levin argues, "often occurred at the expense of private privilege" (Levin, 1987: 631). Increases in the public benefits of schooling do not necessarily correspond to similar increases in the private benefits of schooling. With the compromise perceived to be unbalanced, advocates of school choice believe that the marketplace holds the answer to the dilemma. From this perspective schools serve "no immutable purpose," so balancing the public and private benefits of schooling becomes in large measure a matter of supply and demand (Chubb and Moe, 1990: 30).

## TO CREATE AN EDUCATIONAL MARKETPLACE

School choice is "simply the hottest item on the education reform agenda today," reports Fortune magazine (Rebuilding California's Schools, 1992). Nearly all states are either implementing or considering a choice proposal, and an estimated 10,000 schools currently serve students attending as a matter of choice rather than assignment.

Though the meaning of choice varies, there are basically two types of systems: the free market system of choice that competes for students and the public choice system that expands the pool of educational alternatives available in the public schools. Both systems are fundamentally more responsive to consumer preferences than the conventional public school system because they provide what Hirschman calls exit and voice — opportunities to shift to other service suppliers and channels to communicate preferences (Lieberman, 1989; Levin, 1991).

## THE FREE MARKET SYSTEM OF CHOICE

"Free market economics works well for breakfast cereals, but not for schools in a democratic society," claims National Educational Association president Keith Geiger (Allen, 1991: 45). Yet proponents of the market approach are convinced that a key to increasing educational efficiency, equity, and output is learning from predictable patterns of consumer behavior, whether purchasing cereal or any other good or service in the marketplace. Choice advocate Chester Finn, former Assistant Secretary of Education, writes "we do well to recall that it's the consumers, not the suppliers, for whose benefit we have an education" (Finn, 1991: 30). To satisfy consumers, the argument follows, the enterprise of providing schooling must allow for incentives, rewards, diversity, and market forces to operate.

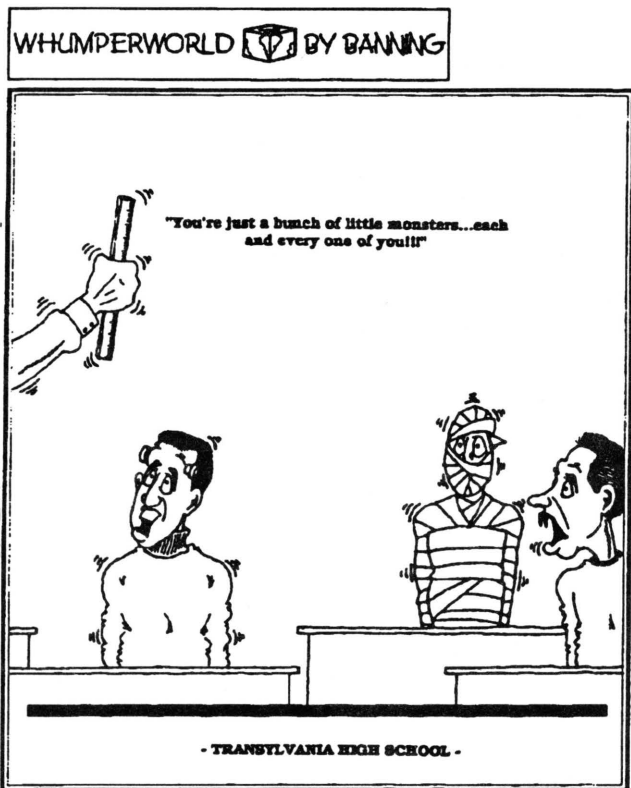
Choice advocates view public education as an inefficient and unresponsive bureaucratic monopoly because it is free from the forces of competition (Coons and Sugarman, 1978; Lieberman, 1989; Chubb and Moe, 1990). In the market system, present rigid attendance assignments would be replaced by a market of educational alternatives. By granting parents the right to choose and change service providers, schools are forced to compete for students and teachers by improving services and optimizing preferences. Varying levels of innovation, experimentation, consumer satisfaction, and output—often measured in terms of achievement on standardized tests—creates competitive ad-

vantages and disadvantages. Those schools with the greatest competitive advantages will be the most profitable and those least competitive will be penalized by the marketplace and forced to either improve or terminate business.

Chubb and Moe argue that "this process of natural selection, based upon ease of entry and performance based attrition, complements the incentives of the marketplace in propelling and supporting a population of autonomous, effectively organized schools" (Chubb and Moe, 1990: 190). Effective schools from this perspective closely resemble private schools. They are characterized by decentralized authority rather than highly bureaucratic and democratic decision-making; competition rather than monopoly. The schools are driven by demand in terms of personnel, pedagogy, goals, leadership, and organization rather than driven by supply. The economic argument follows that with choice "the education supply would be continually contestable and therefore more efficient" (West, 1991: 163). School choice would also create a more effective system compared to the current government regulated, administratively zoned monopoly. To support their position, school choice proponents cite as evidence perceived improvements in mail delivery and trash collection following the break up of their government monopolies and the privatization of their services (Lieberman, 1989: Finn, 1991).

Since school choice proposals are entirely driven by demand, it is imperative for suppliers to be responsive to consumers. If not, then shortages will result and consumer satisfaction will plummet. Choice really refers to choices. "Giving people choice and you don't change anything is not giving people choice," commented Walter Marks, the former superintendent of California's Richmond Unified School District before the highly publicized failure of his experiment (Anderson, 1989: 10). By freeing up the supply-side of schooling through deregulation, competition can stimulate improvement and diversity by encouraging the development of new and different types of schools rather than restricting choice to the existing schools and public system (Coons and Sugarman, 1991; Lieberman, 1989; Chubb and Moe, 1990). Without freeing up the supply-side, Chubb and Moe warn that choice gets lost in political compromises that preserve the basic structure of conventional schooling and therefore limits the efficacy of what choice is designed to offer.

Free market school choice policies and proposals thus far have sought to extend the market to a comprehensive system of private choices through the use of such funding mechanisms as tuition tax credits and educational vouchers. Tuition tax credits refer to a flat sum, direct reduction from federal and state taxes owed. The



credits operate as subsidies, and compensate for some portion of the tuition paid by families for their children's education. Complicated tax laws appear to have limited the momentum of this policy option.

Currently the more popular policy alternative is the use of vouchers or government entitlements provided to consumers which are redeemable for K-12 educational services. Common to the various voucher proposals is that public and private schools would compete for students, faculty, administrators, and resources. Levin describes that the role of the state would be to oversee:

- financing choice by disbursing funds in the form of vouchers,
- regulating choice by ensuring that schools receiving voucher payments are approved by meeting minimum standards, and
- monitoring the marketplace by ensuring comprehensive information to all parents, adjudicating family-school conflicts, and ensuring that all school-age children are attending an approved school (Levin, 1991).

At pilot sites across the nation there is variation in voucher policies, and results differ according to, for example, provisions for information and transporta-



tion, "compensatory" vouchers for low-income families, and "add-ons" for those families willing and able to supplement the vouchers to purchase more expensive services.

## THE PUBLIC CHOICE SYSTEM

Expanding public school options can be an effective substitute for the private alternatives created by freeing the market. These expansion policies are supported by the new Clinton Administration (Martinez-Vazquez and Seaman, 1985 cited in Levin, 1991). Unlike vouchers or tax credits, the set of policy alternatives known as the public choice system are always sponsored by the government and infused with a common core of educational experiences and practices determined by society. The intent is to increase choices for all teachers and students through, for example, curriculum requirements, pedagogical practices, and organizational structures while retaining the common core. The goals of the common core are minimum levels of literacy and numeracy, exposure to worldwide cultures and values, equal and appropriate educational provisions, an understanding of democracy and individual rights and responsibilities, among others determined through participatory democratic processes (Levin, 1987). Beyond these goals, public educational choices can be expanded through a variety of mechanisms. Among them are:

- **Open Enrollment Plans.** These options allow families the choice of sending their children to assigned schools, or schools in other districts.
- **Site-Based Management.** The governance of individual schools is decentralized, allowing teachers, administrators, and families, rather than the district, to govern in response to local preferences.
- **Intradistrict Schools of Choice.** These can be magnet schools that draw students from throughout the district, schools within schools, or demonstration schools. Beyond satisfying the common core requirements, these schools of choice provide specialization in, for example, basic academics, multicultural enrichment, the performing arts, math and science, and vocational training.
- **Post-Secondary Options.** Another method to enrich the pool of public school offerings is to permit students to attend local post-secondary institutions as part of their high school program.

- **Mini-vouchers.** These are entitlements redeemable for various educational services beyond the common core and may be used for electives like art or music. The mini-vouchers may also be used for enrichment activities like tutoring or computer programming, or for special services aiding bilingual or handicapped students.

Each of these mechanisms has the potential for creating meaningful educational choices for parents and students while maintaining a common core of experiences, practices, and beliefs. Together they increase choice without privatizing the public school system.

## MICRO-EFFICIENCIES

Despite the lack of comparable data from various choice programs, Levin (1991) makes an important contribution to the literature by constructing a comparison of the social efficiency of the free market and public choice systems based upon studies of public and private schools. By social efficiency he refers to the ability of each system "to maximize educational outcomes for a given set of resources" at the school level (micro-efficiencies) and at the more general level (macro-efficiencies) of promoting and sustaining choice (Levin, 1991:151). Proponents of the free market choice system claim that competition creates greater efficiency than exists in the public school system. This is true in terms of providing greater diversity of choice and responding to the demands and preferences of families. Beyond consumer sovereignty, though, Levin's review of the research challenges the claim of greater efficiency in terms of per pupil costs and levels of achievement.

Comparative cost studies are cited by choice advocates as evidence that private schools operate at lower per pupil costs than public schools (Chubb and Moe, 1990; Finn, 1991). But there is compelling evidence that these studies are biased because they usually compare per pupil costs to tuition fees and understate costs associated with fundraising, donated resources and facilities from religious affiliates, and the employment of teachers at lower salaries with less experience and training. Since private schools rarely provide costly special education—remedial and vocational programs—unlike the public schools which are mandated by law to provide comprehensive services, the general conclusions drawn from cost data are not valid. Apparent cost variations appear to have more to do with cost accounting in private school data than to real differences (Levin, 1987).

Similarly, charges that private schools "do a better job than government-run schools at imparting skills, knowledge, values, and character" are linked to claims of higher achievement (Finn, 1991: 30). The data are conflicting, but even at the high end it appears that the gains are so limited that they translate to ten additional points on the Scholastic Aptitude Test and an increase of less than five cents an hour for work four years following high school graduation. Levin concludes that "almost half of private school students have achievement scores below the average for public schools (Levin, 1991: 153).

## **MACRO-EFFICIENCIES**

In order for the free market or public choice systems to be effectively implemented there needs to be new institutional structures to support the policies. These may add significantly, perhaps prohibitively, to the cost of providing K-12 education.

Public choice primarily requires a comprehensive information system to inform parents of choices, as well as a reasonable system of transportation to ensure access to the schools. Otherwise, the administrative infrastructure is largely in place through the district system.

Paradoxically, Levin's analysis indicates that while the free market system is highly decentralized at the school level it requires tremendous centralization in governance and is likely to result in high costs and the build-up of state level bureaucracies. Administrative responsibilities and costs associated with market choice plans include customizing transportation; adjudicating grievances; disseminating current, relevant, and appropriate information to all families; regulating schools for eligibility, quality, and compliance; monitoring attendance; and ensuring that voucher amounts reflect student educational needs and entitlements. While the free market system may yield some micro-efficiencies relative to the public choice system, these must be considered against the potential losses associated with the costs of rebuilding the way the nation delivers education.

## **CONTESTING CHOICE**

Many school reformers agree that the marketplace does not hold the answers to improving education. Charles Willie explains that there are fundamental differences between systems designed to produce and distribute goods and services and to develop and impart knowledge, skills, and information (Willie, 1991). First, in the marketplace there are unworthy consumers unwilling to pay the clearing price; in education there are no

unworthy consumers of knowledge. Second, in the marketplace giving away a good or service depresses the market; in education free transactions yield higher returns. Lastly, the economy supports those most capable of producing goods and services; in education the system is designed to support those least capable in order to benefit society.

Some reformers point to the difficulty of America's corporations to succeed in a global economy, and suggest what is needed for schools is not market forces but rather what business and industry needs: a revitalization of "the internal culture and ethos" (Heckman, 1991: 16). Others directly challenge free market choice by citing the failure of deregulating the airline industry and that private schools are generally not market driven or responsive to entrepreneurial incentives because they tend to be not-for-profit institutions.

Yet the most compelling and persuasive reasons contesting school choice are that it is detrimental to the public benefits of schooling and indifferent to issues of equality. As a public good, choice threatens the social functioning of schooling by decentralizing control over the curriculum, courses, and graduation requirements and thereby minimizing the consistent transmission of norms, values, and knowledge considered essential to a democracy. Opponents also believe that the free market will facilitate a decline in achievement because there are no effective mechanisms to ensure a rigorous, comprehensive academic program associated with high achievement.

The most persistent arguments against school choice involve issues of equity. Some claim that choice will disproportionately benefit middle and upper income families because 1) subsidies will increase their benefits because their financial standing already allows for choices and 2) lower income, minority, inner city, and rural families will be offered limited choices because of residential segregation, discrimination, and the logistics of transportation. With the availability of easy exit, choice is likely to lead to increases in segregation by race and class. This conclusion is borne out by evaluation studies of the intradistrict choice experiment in Alum Rock, California and Minnesota's voucher plan (Spicer and Hill, 1990: 106).

Free-market economists believe that the wealthy are society's "tastemakers" and that lower income families will emulate their choices for schooling. This could only result if the poor possess the same tastes and have the same base of resources as the rich. The wide disparity in income distribution between the upper and lower classes and minorities and whites is likely to prevent such emulation and to cause great inequities in a market system. Since educational expenditures are



investments in human capital, and the investments represent less of a benefit to poor and minority families than to middle or upper income families, the potential for schooling to equalize opportunities is minimized.

## WHERE LIES THE ANSWERS

Chubb and Moe describe choice as a "self-contained" reform, having the capacity "all by itself to bring about the kind of transformation that, for years, reformers have been seeking to engineer in myriad other ways" (Chubb and Moe, 1990: 217). They insist that choice must be adopted without the reforms of the excellence movement of the 1980s or the push to make schools more socially responsive through multicultural education, least restrictive learning environments, or by functioning as the hub of comprehensive children's services. By replacing the current system with a new system of K-12 education provision, proponents are convinced that choice is the panacea to the perceived public school crisis (Chubb and Moe, 1990; Lieberman, 1989; Finn, 1987).

But evidence is to the contrary. Many who have successfully reformed public schools observe that reforms do not follow free market choice policies; rather real educational choices result from effective schools. The turnaround of the schools in East Harlem's District Four is a case in point. For more than a decade educators have been reforming the schools through small, intimate, cooperative learning environments; social contact with parents and service providers; and by opposing tracking, selective admissions, and traditional discipline. As part of their efforts, more than 50 schools in 22 buildings have been created. Children and parents are routinely informed of their options and are participants in the decision-making process. District Four is clear, however, that they set out to create effective schools and choices followed. "If you start with a system that's failing, what kind of choice is that" asked one of the district's former curriculum developers. The superintendent added that choice alone would have been like "rearranging the deck chairs on the Titanic." Rejecting the marketplace model as a "most dangerous illusion," District Four's success lies in its strategic reforms for all children and not in a policy of choice (Moberg, 1991: 9).

Choice in its many forms promises to continue to play an important role in the heated policy debate about how best to improve schooling and re-position the nation to compete in the global economy. "In fighting over school choice," asks California Tomorrow's Susan Anderson, are we "hiding from the most powerful questions concerning schools?" (Anderson, 1989: 13). The questions to which she refers center on racism,

poverty, gender discrimination, and fiscal priorities that prevent schools from receiving the resources needed to provide all teachers and students a high quality teaching environment and learning experience. Anderson and others like myself who question the motives and outcomes of school choice agree that there is a standard for schools, and this standard lies in our national sense of democracy and not in the vagaries of the marketplace. ♦♦

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# Regional Governance For The Bay Area

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Edited by Maggi M. Morehouse

The impact of interactions and interdependencies of metropolitan area residents continues to expand beyond the bounds of local communities, the impact of these activities can no longer be adequately addressed within city limits. Reorganizing state and local governments around a regional concept may be a better means to respond to the needs and concerns of a dynamic metropolitan society.

## WHY REGIONAL GOVERNANCE?

Local governments are experiencing increased financial stress and a declining ability to meet their constituents' growing demand for public services. While residents of metropolitan areas may recognize that there are regional issues that transcend individual jurisdictions and which cannot be addressed by local government actions alone, few residents are convinced that these same issues can be satisfactorily addressed through policies developed at the state level. To remedy this situation, certain civic and government interests have proposed rearranging the existing structures of local government around a regional concept as a means to enhance the provision of services and quality of life in metropolitan areas. While the concept of regional governance has been proposed and implemented in a number of areas in the United States, Canada and Europe, the issue of regional government in the San Francisco Bay Area is still being debated.

## THE STRUCTURE OF BAY AREA GOVERNMENT

In the nine counties that constitute the San Francisco Bay Area, there are over 98 municipal jurisdictions and approximately 721 spe-

cial districts that administer public services to the six million residents of this economically, socially and culturally diverse metropolitan area (Porter, 1992: 36).

The traditional American political ideology espouses a determined belief in strong local sovereignty, often referred to as "home rule," wherein most of the responsibility and authority for determining social needs is held by local government. Federalist ideals promulgated by Thomas Jefferson have ensured that federal government powers are delegated largely to the states. Each state has, in turn, delegated specific authorities to local governments, for example over land use, property and sales taxation and the level of certain social benefits. California is no exception and in the Bay Area local governments retain primary authority over these policy areas.

The state of California, however, does require compliance with certain policies that directly affect local areas, and has established Special Use Districts with regulatory authority over a specific program that spans several counties or city jurisdictions. Examples of state funded single-purpose agencies that have regional jurisdiction include the Bay Area Air Quality Management District (BAAQMD) and the Metropolitan Transportation Commission (MTC). In addition to government entities, there are a multitude of "quasi-governmen-

tal" private associations and non-profit agencies that provide public services on a regional scale. The most prominent local example is the Association of Bay Area Governments (ABAG). This organization provides a forum for local jurisdictions and single purpose agencies to voluntarily participate in creating regional plans and goals for the Bay Area. ABAG serves as the federal government's area-wide clearinghouse for review of certain federal grants and also maintains economic, demographic and land use data for federal, state and local government use (ABAG Overall Work Program, 1991).

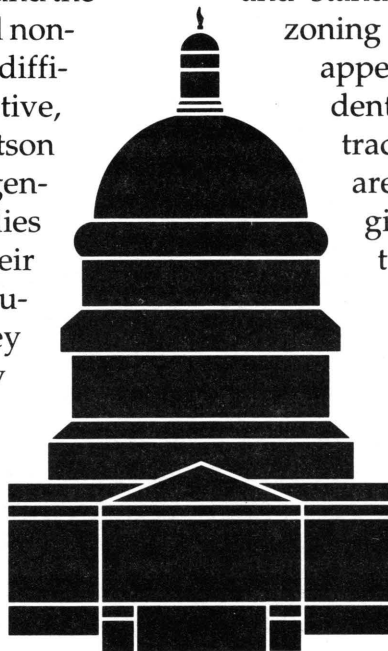
Each government and quasi-governmental body has an elected or appointed leadership, staff and bureaucracy, and a own funding source to implement its specific mandate. At present, there is no central, multi-functional regional organization that is authorized to coordinate resources, create public policies or implement programs that would be consistent and binding upon a greater-than-local, but less-than-statewide constituency.

## WEAKNESSES OF THE PRESENT SYSTEM

Fragmentation of responsibility and the high number of government and non-government authorities make it difficult to create and carry out effective, coherent public policies (Robertson & Judd, 1989; Dolan, 1990). In general, distinct policy making bodies are not obligated to coordinate their policies or activities with other authorities in a region, nor are they required to promote regionally beneficial goals over the interests of their own local constituency. Local governments in particular tend to hold highly parochial view points toward certain policy areas such as lo-

cal land use and taxation rates (Down, 1989: 6). For example, although their constituents may derive benefits from development, most municipalities fight to avoid location of "locally undesirable land uses" termed LULUs, within their community. Such developments include airports, sewage treatment facilities, prisons, and even low-income and multi-family housing. Economic and social segregation becomes entrenched when wealthy, politically strong communities are able to resist LULUs, forcing economically disadvantaged communities to be further disadvantaged by their disproportionate share of LULU locations (Robertson & Judd, 1989). Individual jurisdictions also attempt to minimize their residents' contribution to regional infrastructure projects, such as BART, in order to keep local tax rates low. The result is a chronic under provision of vital regional services, and unequal distribution of public projects throughout the region (Downs, 1989).

Local governments do not make policy decisions simply to frustrate regionally beneficial goals. Municipalities react to continual reductions in federal and state funding by competing with other communities for business and residents who would be able to finance needed public services for the community. Policies and standards, such as taxation rates or zoning restrictions, may be tailored to appeal to a specific business or resident that a community wishes to attract and retain. As policy variations are adopted in each community, regional consistency among jurisdictions plummets. This intercity competition for tax revenues and economic advantages creates an atmosphere where civic rivalries and wide policy variations make interjurisdictional cooperation on regional issues very difficult to achieve.





In contrast to local governments, single purpose agencies and quasi-governmental associations do maintain a regional perspective and establish regional goals for their activities. Still, the effectiveness and responsiveness of the units to act in the regional public interest is questionable. Decision-makers in these governing units are appointed by the State, not elected by local residents, causing one critic to note that governing by special districts or authorities is the "least democratic and least accountable form of local government" (Dolan, 1990: 31). Quasi-governmental associations are additionally problematic since they must rely on voluntary participation of local governing bodies. Associations like ABAG may be authorized to study and prepare regional plans, but they have no legal or legislative capacity to implement or enforce compliance with their plan.

## **SOLVING THE PROBLEM**

Clearly, it appears that the present system is not optimal for addressing interrelated, regional issues that cut across local or functional jurisdictions. Improving the status quo is a concern among land-use planners, business interests, environmentalists and other public officials. There is consensus on at least one issue: better coordination and cooperation among the interdependent authorities is needed. At this time, however, there is little consensus on the means to achieve or enforce cooperation between jurisdictions. Establishing a truly cohesive governing structure that is accountable and responsible to address regional issues is offered as one means toward better local government. While the particular proposals vary, the concept of regional governance is to establish some type of structure that is responsive to citizen preferences, efficient in producing services, and equitable in financing and delivering services throughout the region (Parks, 1989).

## **THOSE WHO STAND TO GAIN**

Proponents of regional governance traditionally cite at least five benefits to establishing a regional forum to address regional problems:

- economies of scale in providing public services and infrastructure development on a region-wide basis;
- improved decision-making on detecting locally undesirable developments of regional benefit;
- improved interjurisdictional cost equity for problems that extend beyond local boundaries;
- more integrated and consistent planning;
- and more equitable, better coordination of services throughout the area (AB 3, Section 62001; Dolan, 1990).

Typically, the general public does not closely follow debates over technical details of public policy. The details of the policy proposals have often been fiercely debated among opposing interest groups and government representatives who feel they may be negatively impacted. Interest groups have diverse goals and mandates, yet they would be equally well served through a type of regional government.

In the Bay Area, the most vociferous supporters of regional governance include the Greenbelt Alliance and the Sierra Club. Both groups are interested in preserving open spaces and protecting environmental quality. The Bay Area Council, another outspoken proponent of regional government, is concerned with improving economic development and regional growth (Bay Vision 2020 Report, 1991; Porter 1992). While big business and environmental interest groups may clash

on other issues, both see benefits to coordinated, comprehensive long range growth planning that could be achieved via a multi-functional regional authority.

Other strong forces promoting regional governance for the Bay Area include the Bay Vision 2020 Commission, which funds a political action committee (PAC) to lobby for regional governance legislation. This group is chaired by Ira Heyman, former professor of City and Regional Planning at U.C. Berkeley. Regional planners were among the first to propose and support regional government. They have long held that the variations in local planning requirements make planning regional developments a near impossible task, which could be improved if a regional body had authority to direct and enforce unified, consistent land use policies across neighboring jurisdictions (Hansen, 1990; Senior, 1966; Webster, 1958). In addition, ABAG has also evolved into an avid supporter of regional governance because they stand to benefit greatly if such proposals as SB 797 are adopted. SB 797 proposes that a regional government for the Bay Area be formed primarily from the existing structure and appointed officers currently in place at ABAG.

## THOSE WHO STAND TO LOSE

Not everyone believes they will be better off under a regional government structure. The debate has carried on unsettled since the Greater San Francisco Movement of 1910 suggested unifying San Francisco, San Mateo and all other jurisdictions along the Peninsula into one integrated region (Scott, 1985). It was laid to rest after local politicians from predominantly small towns appealed to the cherished "home rule" values of the voters, arguing that local interests would be usurped by decisions imposed from politically stronger "big cities" in the region. This argument is still as much a concern for local governments in metropolitan areas as it is for smaller localities today.

Localities fear loss of independence, identity and authority, by being overruled by more powerful, larger jurisdictions. Officials suggest that if policy making and enforcement are aggregated at a regional level, all jurisdictions will be brought down to the "lowest common denominator" (Scott, 1985). Commenting on a recent Assembly Bill (AB 4242) that would establish regional government commissions in charge of area growth and development throughout the state, local officials in Southern California stated that they were "opposed to having choices taken away from officials elected by the local community" and were "very wary of being forced into a mandatory situation where we would lose the ability to govern our own destiny" (LA Times, 1/28/91).

## LEGISLATIVE SUPPORT REQUIRED

Due in part to resistance from local jurisdictions and regional agencies to surrendering even an increment of their own authority or independence, formulation and implementation of regional issues tend to be dominated by initiatives originating in "central governments" (Nijhoff, 1964: 280). For the Bay Area, state legislative and gubernatorial support is required to install a government unit with authority to create and implement policies on a region-wide basis. The issue of regional governance which typically pits local jurisdictions against strong, organized interest groups is considered a political "hot potato" by the legislature, and does not currently enjoy overt support from Governor Wilson. Although gubernatorial support is considered "an indispensable component of every major growth management act," the fact that House Speaker Willie Brown (D-CA) sponsored a recent bill promoting regional governance is some indication of the legislature's interest in finding more responsive governing methods (Porter, 1992: 39). Unfortunately, the more immediate concerns over the 1992 Budget usurped the bill and it died in the Assembly. The diligence



of interest groups and their PACs insures that legislation will continue to be introduced in future sessions.

## **INDECISION AMONG THE RANKS**

Even among supporters, controversy rages over which version of regional governance would be most appropriate and widely supportable. There is disagreement over the amount of authority and the number of issues to be given to regional governments. There are also arguments over whether the goal of regional governance should be pro-growth or no-growth; whether the structure should consist of elected officials (Parks, 1989; Glidden 1992) or a commission appointed by the legislature (AB 3; Bay Vision 2020, 1991). Additionally, there is debate about whether a regional government body should add another layer to the existing hierarchy of state, county and local jurisdictions, or whether a true restructuring is in order. Philosophy professor, David Glidden envisions a complete restructuring including the dissolution of counties into unified regions with local power given to neighborhoods. He wants to break down huge cities like Los Angeles and San Jose (Glidden, 1992). The resolution of conceptual differences may be a necessary precursor to widespread acceptance of a regional governance concept.

## **ALTERNATIVES EXIST**

Is structural change necessary to achieve more effective, responsive local government? Certainly alternatives do exist. Economist Claude Gruen suggest that we attempt to improve the present structure first, before we declare it unworkable. He suggests "devoting more attention to obstacles faced by existing local governments, such as lack of tax sharing and fiscal disincentives to balanced growth would obviate the need for regional government" (Porter, 1992: 39). Others argue that structural change necessary to address inequities and

inefficiencies of local land use restrictions and intercity competition must occur at a higher level, citing federal responsibility and funding of local services as the place to address change (Robertson & Judd, 1989; Down, 1989: 10).

In contrast to the notion that coordinated, cohesive policy making leads to more effective government, there are those who maintain that fragmentation is actually preferable to ensure a democratic government. Organizational theorists Roger Parks and Ronald Oakerson reject the idea that a single, area-wide general purpose government is the best regional structure and cite a preferable structure with multiple layers that is "sufficiently open to allow for diverse solutions that respond to variable conditions" and encourages "citizen choice and public entrepreneurship" (Parks, 1989: 19).

## **SUMMARY**

The proposal for regional governance is not new. The concept gained prominence in the Bay Area almost a century ago and continues to resurface on the political agenda regularly. While interest in regional governance remains constant, so too does the threat that this restructuring holds against Americans' deeply ingrained ideology espousing strong local self rule. A great deal of literature and argument on the subject is yet to be written. Further study of alternative means to address regional problems is required. More importantly, a clearer understanding of exactly what is being proposed as a "regional government unit" in each supporter's vision of regional governance must be identified and its merits debated before one form is adopted over another. At a minimum, the continual inability of local governments to respond collectively to regional problems and the sheer persistence of regional governance as a proposed solution, merits this an issue worthy of considerable future research.

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# Gay Rights Legislation in California

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Edited by Timothy A. Rodrigues

Governor Wilson signed AB 2601 on September 25, 1992. This bill was an attempt at comprehensive, statewide civil rights protection for lesbians, gays and bisexuals. Yet, this legislation went through several transitions and modifications over many years. This paper serves to review the history of the effort to enact gay employment rights in the state, focusing mainly on Assembly Bills 1(1977), 101 (1990), and 2601 (1992), and to analyze the political process that delayed the enactment for 17 years.

## INTRODUCTION

On September 25, 1992 Governor Pete Wilson signed AB 2601 into law. His signature marked an end to the 17-year battle in the state legislature over employment rights for lesbians, gays and bisexuals. Despite California's progressive reputation, AB 2601 was neither the first nor the most comprehensive bill of its kind and subsequently there was very little rejoicing among its proponents over its passage. AB 2601 simply prohibits discriminatory employment practices by California businesses, excluding those operated by religious organizations, based on an individual's real or perceived sexual orientation. Still, passage of the bill marks an important step towards legalizing equal protection for gays in the state of California.

## GAY RIGHTS—SOCIAL REGULATORY POLICY MAKING

As a political matter, the debate over gay rights is similar to that of other social regulatory issues, such as abortion and pornography in that it tends to involve deeply held beliefs or values—therefore it generates considerable controversy. Regulatory experts Raymond Tatalovich and Byron W. Daynes identified several characteristics common to the issues surrounding social policy making. Though their analysis focused primarily on the processes within national policy making, three of the steps they identified pertain to the gay rights debate at the state level. The three steps are: (1) the promotion of legal change by

an activist judiciary; (2) the significance of single-issue groups in social regulatory conflicts; and (3) the promotion of absolutist positions by single-issue groups (Tatalovich, 1988). My analysis of the California political process, in regard to gay rights, concentrates on the influence of these processes on the status of lesbians, gays, and bisexuals.

*As a political matter, the debate over gay rights is similar to that of other social regulatory issues, such as abortion and pornography, in that it tends to involve deeply held beliefs or values—therefore, it generates considerable controversy.*

## UNEQUAL PROTECTION UNDER THE LAW

California's first gay employment rights bill, AB 633, was introduced in the Assembly in 1975, the same year that Assemblyman Willie Brown (D-SF) introduced legislation that decriminalized homosexual acts between consenting adults. Though AB 633 died in committee, enactment of the consenting adults law signaled a growing awareness of homosexuals as a legitimate constituency. This

awareness came in the aftermath of the Stonewall Riot of 1969, which marked the beginning of the modern gay rights movement in the United States. Sparked by an unwarranted police raid of a New York gay bar, the riot unleashed sentiments that reverberated in lesbian and gay communities around the country. The years that followed witnessed a proliferation of gay social and political organizations and signaled an increase in societal acceptance (D'Emilio, 1992). Municipal gay rights ordinances were enacted across the nation, in states like

New York, Colorado, Minnesota, Washington and Ohio (National Gay & Lesbian Task Force). Also twenty-three states repealed laws that made homosexual relations a criminal offense (Ducat, 1992).

In light of the legal status of homosexuals at the time, the gains of the early gay liberation movement were especially significant. At the federal level, neither the Civil Rights Act of 1964 nor any other national legislation specifically addressed discrimination based on sexual orientation. Some federal courts upheld certain cases for lesbians and gays, usually on the basis of a constitutional right to privacy or due process. In general, the judicial findings were inconsistent and occasionally conflicting (Knutson, 1977). In 1986 the U.S. Supreme Court compounded the problem by rejecting the argument that state sodomy laws violated the right of privacy of homosexuals (*Bowers v. Hardwick*, 478 U.S. 186). In the absence of federal gay rights policy, the issue fell to the state courts and legislatures. California's two main civil rights laws, the Unruh Civil Rights Act and the Fair Employment and Housing Act (FEHA), offered more comprehensive protections than federal laws, yet neither enumerated homosexuals among those groups specifically protected (Simmons, 1982).

By the 1970s the California state judiciary had a relatively long history of decisions favorable to homosexuals. In 1951, eight years before enactment of the Unruh Act, the state Supreme Court ruled that without evidence of illegal or immoral behavior, certain business establishments were in violation of the California Civil Code when they excluded homosexuals (*Stoumen v. Reilly*, 37 Cal. 2d 713). Passage of the Unruh Act expanded the Code's application to "all establishments of any kind" (*Harris v. Capital Growth Investors XIV*, 52 Cal. 3d 1142). Almost 20 years after the *Stoumen* decision, the court ruled to protect citizens from discrimination even when dressed in "an unconventional manner." In their decision, the court concluded that the Unruh Act prohibited all "arbitrary discrimination by a business enterprise" (*In re Cox*, 3 Cal.3d 205, 1970).

While the legislature continued to struggle with gay employment rights legislation, the state courts gradually expanded the scope of existing civil rights laws to cover lesbians, gays, and bisexuals. In 1986, following the sixth consecutive defeat of a gay rights bill, then-California Attorney General John Van de Kamp published an opinion which described the 1979 state supreme court ruling as essentially the establishment of protection

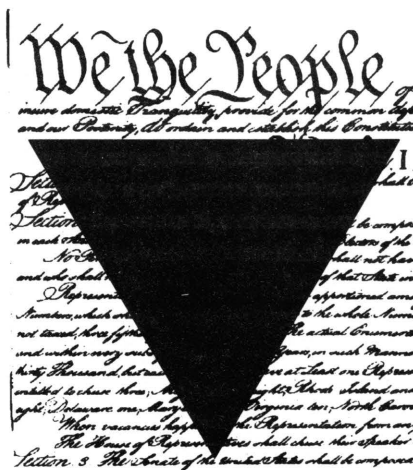
against employment discrimination based on sexual orientation. In *Gay Law Students v. Pacific Telephone & Telegraph Co.* 24 Cal.3d 458, the court equated the struggle for gay rights with political activity and, thus, held that self-identified and "manifest" homosexuals were protected under the Labor Code. Van de Kamp's opinion broadened the application to all homosexuals regardless of the private or public nature of their sexual orientation (Simon, 1992). This ruling, along with a further expansion of the Unruh Act to include housing rights for lesbians, gays, and bisexuals (*Hubert v. Williams*, 133 Cal. App. 3d Supp. 1, 1982), established a means of addressing gay civil rights violations through the state judicial system.

Beginning with AB 633, state legislators attempted to apply the same reasoning exhibited by the courts to other areas of state law. Subsequent bills, including then-Assemblyman Art Agnos' AB 1 and Assemblyman Terry Friedman's AB 101 and AB 2601, revised existing statutes to reflect the favorable court decisions. Defending the continuing effort to enact employment protections for gays, Assemblyman Terry Friedman (D-Sherman Oaks) argued that the tenuous nature of court decisions and the financial burdens of litigation warranted passage of such legislation (Friedman, 1992). Governor Wilson used the reverse logic to justify his veto of Friedman's AB 101—that case law was enough. The governor's veto message cited the cases as evidence that existing statutes adequately protected gays, and that additional laws would only burden California businesses.

Shortly after the veto of AB 101, a California appeals court confirmed the earlier opinion that discrimination based on sexual orientation violated Labor Code protection of political activity (*Soroka v. Dayton-Hudson Corp.*, 235 Cal. App. 3d 654, 1991). The state Supreme Court granted review of the *Soroka* case, while meantime the Wilson Administration Labor Commissioner began to investigate anti-gay discrimination cases (Appropriations Fiscal Summary, 1992). AB 2601, the culmination of years of legal and political debate, simply codified the existing practice of non-discrimination exempting small businesses and religious organizations.

## THE CHANGING LEGISLATIVE ENVIRONMENT

The introduction of gay rights legislation came about as a result of cul-





tural shifts and demographic shifts. The establishment of gay communities throughout the U.S., in cities like New York, Miami, San Francisco and Los Angeles, brought about greater recognition of gays as a political entity. San Francisco Assemblyman John Foran, a moderate Democrat, authored AB 633 to satisfy his newly reapportioned gay constituency (Friedman, 1975). The success accomplished by the gay constituents also triggered a backlash among conservatives who felt homosexuality to be a threat to their way of life. Repulsed by the social upheavals of the 60s and the increasingly liberal sexual mores of the country, religious fundamentalists joined with aggressively conservative elements in the Republican party to form the "New Right" (D'Emilio, 1992).

***...the tenuous nature of court decisions  
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Gay rights legislation figured prominently on the New Right's "hit list." One of the New Right's first targets was the repeal of a homosexual anti-discrimination bill passed in Florida in 1977. The celebrity status of its spokesperson, singer Anita Bryant, propelled the "Save Our Children" campaign into the national spotlight. What started as an issue of local concern mushroomed into a national anti-gay rights crusade. The successful repeal of the Dade County statute dramatically illustrated the strength of the growing anti-gay rights lobby.

Foran's successor, Art Agnos (D-SF), continued the promotion of gay rights legislation despite the backlash. Beginning in 1977, Agnos introduced gay employment rights legislation in five consecutive sessions of the legislature. However the New Right, was not the legislation's only obstacle. Success of the political forces behind Proposition 13, and demographic shifts favoring suburbs and small towns, hastened the state's swing to the right (Quinn, 1979). While Democrats retained control of the legislature and most high offices, the changing political environment doomed most "liberal" policies and politicians (Salzman, 1979).

The increasing political conservatism, both nationally and in the state, along with the effective voter mobilization efforts of religious fundamentalists, provided moral conservatives with credibility and considerable political influence. Even Democrats understood that on certain issues the religious lobby could rally great numbers of supporters and gay rights was one such issue (Sylva, 1985). Agnos' efforts met with consistent opposition from conservatives like Rev. W.B. Timberlake, who as head of the Committee on Moral Concerns, argued against gay rights on the grounds that it went against the Bible.

While religious groups formed the core of opposition to Agnos' bills, they were joined by some non-religious groups, such as the California Manufacturers Association and the California Peace Officers Association. The viewpoints expressed by the opponents of the legislation reflected prevalent fears that equal protection of gays posed a threat to the economy and social order, as well as to "traditional values." The same fears and prejudices that motivated the conservative opposition also helped shape the final policies. To appease conservative concerns, each of Agnos' bills incorporated provisions that: (1) exempted from protection an individual with a prior conviction involving sex with a minor if the job involved working with minors; (2) prohibited any system of quotas or other type of affirmative action; (3) guaranteed the continuation of an employers' right to administrate a bonafide dress code; (4) exempted businesses run by religious organizations; and, (5) prohibited any "advocacy" or discussion of sexual orientation (i.e., homosexuality) in the workplace during normal work hours. Despite these compromises, only one of Agnos' bills passed the legislature.

With Friedman's introduction of AB 101 into the 1990 legislature, California set the stage for the quintessential social regulatory showdown. AB 101, as introduced, exceeded the scope of its predecessor bills by prohibiting discrimination in housing as well as employment. Though Friedman retained many of the compromises established in the prior legislation, and eventually dropped the housing provision, the bill still faced opposition from conservatives. Most notable among the opponents was Traditional Values Coalition founder, Rev. Lou Sheldon, and other members of the Conservative Coalition. Formed by Pat Robertson in the wake of his failed presidential campaign, the Conservative Coalition emphasized low-visibility, grassroots support of "pro-family, pro-life" issues and candidates at local and state levels (Nollinger, 1993).

In the campaign to pass AB 101 the considerable influence of the moral conservative lobby was matched by that of the gay rights lobby that had gained skills from many years of AIDS activism (D'Emilio, 1990). Perhaps in recognition of the growing power of the gay rights lobby, conservatives switched to a strategy based less on moral superiority than on cultural disadvantage. An Assembly Ways and Means analysis of AB 101 cited testimony from ethnic minorities who rejected the argument that gays needed or deserved legal protection from job discrimination. The analysis implied that, in comparison to "genuine" minorities, gays were generally well-educated and financially well-off, and therefore did not constitute an oppressed class. Employment rights in this respect would amount to "special privileges."

Though AB 2601 generated the same controversy as AB 101, its success reflected further changes in the political environment more than the talents of either lobby. The growth and diversification of the Republican party throughout the 1980s placed strains on the GOP leadership to find a unifying message (Raimundo, 1986). In the face of impending defeat in the 1992 elections, moderate Republicans came to see moral conservatives as a potential liability and so they called for increasingly moderate stances on social regulatory issues (Nollinger, 1993). Some Republicans even went so far as to defend gay rights as being "in line" with their overall disapproval of government intervention into private lives (The Advocate, 1992).

## THE CONSERVATIVE MANDATE

State politics have clearly become more conservative in the aftermath of the "taxpayers' revolt" lead by the Jarvis/Gann coalition. The defeat of an anti-gay ballot measure in 1978 and the opinions voiced in statewide polls indicate the California mandate was more fiscally than morally oriented. Following Anita Bryant's successful anti-gay rights campaign, state Senator John Briggs placed an initiative on the state ballot that would prohibit public agencies from hiring homosexuals. The same electorate that championed the fiscal savings of Prop. 13 found no such savings in the Briggs Initiative and rejected it by over a million votes. Results of a survey conducted a year earlier reflected a slight majority (52 percent) of California residents approved of legislation banning employment discrimination against gays (The California Poll, 1977). A similar survey taken in 1985 indicated increased support of gay employment rights (The California Poll, 1985). Respondents to a 1991 survey regarding the passage of AB 101 showed favorable support (62 percent to 29 percent) even while Governor Wilson prepared to veto the bill (The California Poll, 1991).

The consistent defeat of gay employment rights legislation, despite growing popular support for such legislation, reflects divergent pressures at work in state politics. Conservatives wielded considerable influence in the Democratic legislature, yet they never gained total control. Because approval of gay rights issues generally follows party lines, the majority Democrats eventually succeeded in passing three gay employment rights bills through the legislature. However, beginning in 1982 Californians elected Republicans into the

governor's office and both men, George Deukmejian and Pete Wilson, ultimately decided the fate of these bills.

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AB 1 arrived on Deukmejian's desk in March 1984, two years after he took office. Though he enjoyed the support of the far right, due in large part to his refusal to raise taxes, he was not considered an arch-conservative (Zeiger, 1986). The AB 1 campaign, however, conflicted with one of his key principles to avoid controversy (Liebert, 1985). In the heightened political tension of a presidential election year, and in recognition of his potential as a running mate for George Bush in 1988, all eyes focused on Deukmejian. In an effort to minimize the controversy, the Governor announced the veto of AB 1 during the Super Tuesday election returns.

Wilson faced an even greater dilemma when he considered the veto of AB 101 because heightened awareness of gay issues would have resulted in extreme disapproval from either one side or the other. During his campaign, Wilson actively sought the gay vote and gave the impression that he supported gay employment rights, at the same time managing to retain the support of conservatives (Zeiger, 1991). Wilson's narrow margin of victory over former San Francisco Mayor Diane Feinstein showed that either side could have made the crucial difference—every vote mattered. In an attempt at pragmatism, Wilson justified his veto of AB 101 on the ground that it would have unfairly burdened "innocent employers," but cautioned "the tiny minority of mean-spirited, gay-bashing bigots" not to take comfort in his decision. The response could not have been worse. Within hours of the announcement gay rights demonstrators filled the streets of Los Angeles and San Francisco, and by the end of the week the protests had moved to the state capitol. Conservatives, on the other hand, considered his pro-gay rhetoric, as well as his first-year tax hike and pro-choice stance, as further evidence that the governor was out of step with true conservatism (Nollinger, 1993).

If changes in the political environment allowed Wilson to modify his stance on gay rights, the modification was slight. AB 2601 essentially codified the existing practice implemented by the Wilson administration. A veto would have invalidated his stated objections to AB 101, and brought to light his political motives (ACLU News, 1992). At the same time he signed the simple but effective AB 2601, however, he vetoed Assemblyman

Willie Brown's Omnibus Civil Rights Act, which contained elements very similar to the comprehensive protections of AB 101.

## CONCLUSION

Undoubtedly AB 2601 and its predecessor legal cases, provide California's gays, lesbians and bisexuals with comprehensive civil rights. But rights based on common law and on recognition of homosexuals as a "political entity" still amount to unequal protection under the law. Brown's Civil Rights Act, like its predecessors AB 1 and AB 101, would have provided gays the same rights under FEHA that are available to any other protected group.

In the absence of a coherent federal policy or a Supreme Court ruling establishing a fundamental right of privacy for gays, the future of gay rights lies squarely in the hands of state justices and legislators. While the actions of President Clinton indicate that the backlash may be giving way to an era of expanded rights, moral conservatives are far from being vanquished. In light of recent state ballot measures aimed at prohibiting gay rights statutes, including Colorado's successful Measure 2, it is clear that the battle will continue to be fought. ♦

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# The Americans with Disabilities Act

Written by Jean Schnall

Edited by Maggi M. Morehouse

Breaking through the social and political barriers that had long excluded them from mainstream society, the disabled empowered themselves to shape and help pass the Americans with Disabilities Act (ADA). This landmark legislation mandates equal citizenship for more than 43 million Americans with disabilities and was the culmination of decades of political and legislative action by the disability rights movement.

## INTRODUCTION

On July 26, 1990, President Bush signed the Americans with Disabilities Act (ADA), witnessed by members of his administration, bipartisan leaders of Congress, the national and international press, and more than 3,000 members of the disability rights movement (Worklife, 1990: 2). Similar to the 1964 Civil Rights Act for other minorities, the ADA protects disabled persons from discrimination in employment and public accommodations. In addition, the act requires that public transportation, public facilities and telecommunication systems be accessible (Rovner, Almanac, 1990: 447).

## PRE-ADA POLICY

The ADA was the culmination of decades of work by disabled activists, who adopted much of the philosophy and many of the strategies of the civil rights movement (Mayerson, 1992: 8). The goals of the disability rights movement have been to achieve self-determination, equal opportunities and integration into all aspects of society (Hirsch, 1991: 1). To achieve these goals disabled activists used the proven tools of advocacy: the law, the courts and civil disobedience (Mayerson, 1992: 8).

The birth of the movement came in the 1960s, when the first Independent Living Center was created, which served as a model for hundreds of service centers and changed the focus of disability policy from care to rights (West, 1991: 13). The movement began when a group of disabled students at U.C. Berkeley decided to move from the student infirmary and create an accessible non-institutional home. However, once outside the doors of their living center, the students faced an inaccessible environment. They realized they would need to remove the social and physical barriers in the community to have the same opportunities as the able-

bodied. Providing the necessary activism required to change any policy, the students set out to create a mandate for equal protection under the law (Hirsch, 1991: 2). The national network of independent living service centers that subsequently developed provided the grassroots support that helped pass the ADA (Golden, 1992: 1).

Decades of legislative and political action were the building blocks for the Americans with Disabilities Act. One of the first blocks was Section 504 of the 1973 Rehabilitation Act which banned discrimination against qualified persons with disabilities in any program or activity receiving federal funds (West, 1991: 17). For the first time, exclusion of the disabled was viewed as discriminatory and was not to be tolerated. Section 504 also established the disabled as a class who were not to be excluded irregardless of their physical or mental limitation. While there were major differences between each type of disability, it was recognized that all disabled people faced discrimination in employment, education and access to society (Mayerson, 1992: 9).

*The movement began when a group of disabled students at U.C. Berkeley decided to move from the student infirmary and create an accessible non-institutional home.*

Unfortunately it still took four years, a lawsuit and vigorous nation-wide protest before the federal administration enacted the regulatory rules that had been drafted to implement the law (Mayerson, 1992: 9). The "cross-disability" coalition created to protest the ad-

ministrative inaction was later mobilized (Johnson, 1988: 489).

In 1979, the Disability Rights Education and Defense Fund (DREDF) was formed. The organization fought against discrimination and increased the disability community's power by making them full partners in the national effort to achieve civil rights for all disadvantaged groups. Soon after its establishment, DREDF met with leaders of minority and women's rights organizations who had acquired legal reform experiences and they developed ties to strengthen the disability rights movement. This broader coalition was instrumental in passing the Civil Rights Restoration Act and the Fair Housing Act amendments, which protected all disadvantaged groups (Mayerson, 1992: 1).

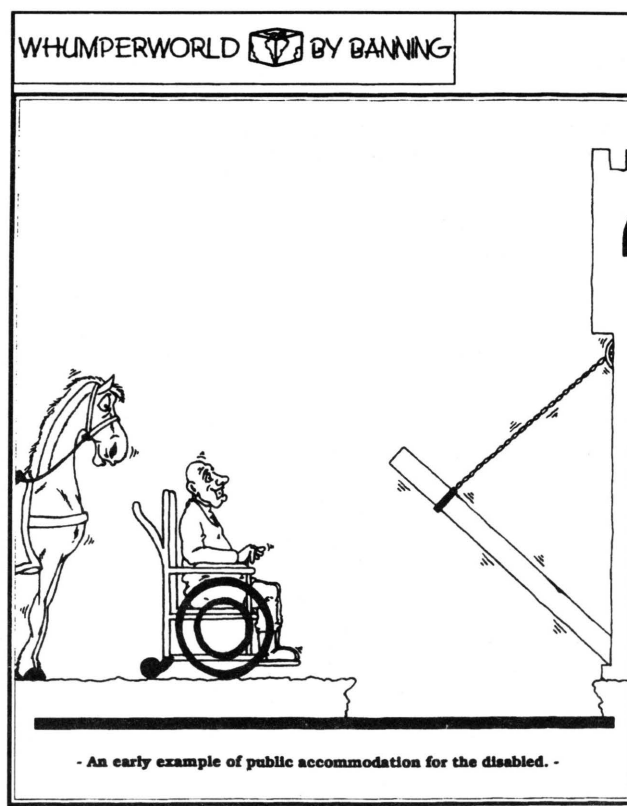
Throughout the 1980s, groups such as DREDF began empowering people with disabilities by training them to advocate for the creation and enforcement of legislation promoting equality (Johnson, 1988: 489). They also established a grassroots network for advocacy which was activated for the ADA (Mayerson, 1992: 2).

In addition, Americans Disabled for Accessible Public Transportation (ADAPT) was created to press for wheelchair lifts on buses (Rovner, Report, 1990: 838). They have served as the direct-action cadre of the disability rights movement and are credited for invigorating it, especially around transit issues (Johnson, 1988: 491). Many people in the movement believe it was ADAPT's method of civil disobedience—chaining themselves to buses—which led to the creation of the ADA (Kutz-Mellem, 1992).

Disability advocates faced another challenge in the 1980s when President Reagan decided to abolish any federal law regulations which were disliked by businesses, such as those outlined in Section 504 of the 1973 Rehabilitation Act. He appointed Vice President Bush as chair of the Task Force on Regulatory Relief. In turn, the disability movement mobilized to preserve the Section 504 regulations. They met with administration officials and continually lobbied the White House with letters demanding an end to the deregulation trend. Achieving yet one more victory, disability advocates were able to reinstate the regulations and the stage was set for the ADA. Bush, and officials who later served in his presidential administration, realized the importance of civil rights for the disabled (Mayerson, 1992: 10).

## THE ADA: SETTING THE AGENDA

For many years, the disability movement had been calling for federal legislation to protect the disabled



(Johnson, 1992). They requested protection in the areas of private sector employment, public accommodations, public services, transportation, and telecommunications (Congressional Digest, 1990: 289).

In 1988, the National Council on Disabilities, an independent federal agency comprised mostly of people with disabilities and their parents, issued a report to President Reagan recommending the enactment of comprehensive anti-discrimination legislation. A draft of the Americans with Disabilities Act was included in the report (National Council on Disabilities, 1988). Vice-President Bush endorsed the draft bill on the 1988 campaign trail for the presidency. Setting policy in controversial areas such as civil rights requires strong executive leadership and Bush pledged his support (Ripley and Franklin, 1991: 149).

Disability activists succeeded in placing their civil rights needs on the agenda by using skillful strategies. They established strong ties with decision-makers and demonstrated the value of their constituency as a valuable adjunct to the existing power base. They appealed to the nation as they chronicled and dramatized the serious obstacles the disabled faced in society.

The 1988 report by the National Council on Disabilities referred to the disabled as an emerging political constituency (National Council on Disabilities, 1988: 17). Beginning in 1984, the activists registered many per-



sons with disabilities who had never voted. After Bush made his pro-ADA statement in the 1988 presidential campaign, a poll showed the lead that contender Dukakis held over Bush among disabled voters fell by 13 points (Holmes, 1990: 5).

Taking into account President Bush's conservative ideology, disability activists stressed the cost-saving effect of the ADA. When he signed the bill into law, he noted that taxpayers spend almost \$200 billion a year to support the disabled through entitlement programs. He added, "when given the opportunity to be independent they will more proudly enter into the economic mainstream of American life, and that's what this legislation is all about" (Devroy, 1990: 5).

Activating thousands of disabled people to illustrate the massive discrimination problems, the disability movement mobilized friends and their families to attend public hearings which were chaired by members of congress across the nation (Mayerson, 1992: 11). The activists supplied evidence of discrimination, from denied employment to transportation, from getting into movie theaters to riding buses (Lancaster, 1992). Advocates framed the issue of discrimination in terms of official national creeds — justice and equality. Civil rights are guaranteed as part of the Constitution. If an issue can be defined as one of discrimination, it becomes urgent that a remedy be implemented (Silverstein, 1992).

## MOVING THROUGH CONGRESS

The agenda was set in 1989 when Senator Tom Harkin (D-IW), chairman of the Subcommittee on Disability Policy, along with Senator David Durenberger (R-MN), introduced into the Senate an amended version of the draft bill proposed by the National Council on Disabilities. Representatives Tony Coelho (D-CA) and Hamilton Fish (R-NY) initiated the bill in the House of Representatives (Mayerson, 1992: 11).

The disability movement created an "army." Following the strategies of the previous civil rights movement, disabled activists established a new coalition to support ADA policy objectives and push the bill through Congress (Silverstein, 1992).

The Consortium for Citizens with Disabilities (CCD) assembled and led the ADA coalition. It was the largest political alliance of disabled persons and their supporters in history. Over 100 national disability organizations were represented, as well as hundreds of civil rights, AIDS, labor, civic, and religious groups. People with a myriad of disabilities, located in communities throughout the nation, were included (Golden, 1992: 1).

And, everyone made a commitment to maintain disability as a class. Groups representing people with specific disabilities vowed to work on all issues (Mayerson, 1992: 12).

An organizational structure was created to ensure that, although the decision-making process would inevitably involve disputes among representatives of different groups, the coalition would speak with one voice in public. The structure also guaranteed that advocacy would be efficient and effective. The CCD's Civil Rights Task Force handled the overall organization and coordination of all activities (Golden, 1992: 1). They oversaw legal, lobbying and grassroots groups, each with their own coordinator. (Silverstein, 1992). In addition, the CCD mobilized the community through broad cross-disability grassroots networks (Golden, 1992: 1). The coalition demonstrated the power of people with disabilities and Congress began seriously considering the ADA (West, 1991: 16).

The bill passed easily through the Senate where the final vote was 76 to 8 (Rovner, Almanac, 1990: 447). It fell under the jurisdiction of only one committee, Labor and Human Resources, chaired by Senator Edward Kennedy (D-CA), who smoothed its passage. However, the bill passage process bogged down once it reached the House, where the ADA was considered by four committees (Rovner, Almanac, 1990: 448). It was in the House where disability advocates met their chief opponents: the business lobbies and their conservative government backers concerned with compliance costs. The CCD — in conjunction with Bob Silverstein, Chief Counsel of the Senate Subcommittee on Disability Policy — activated strategies to keep the bill on track (Silverstein, 1992). Negotiators and policy analysts strategized with members of congress. They supplied witnesses for committee hearings to document discrimination, galvanized thousands of letters and telephone calls from the grassroots networks, and deterred members who were proposing weakened amendments. Scores of disabled people throughout the nation visited their representatives to advocate for a strong bill (Mayerson, 1992: 13). Disabled government officials lobbied the president, whose support was wavering, to resist the weakening of legislation (Lancaster, 1992).

Electrifying direct-actions were staged in March, 1990 when a group of disabled activists crawled up the Capitol steps to dramatize the barriers confronting them (Eaton, 1990: 1). Extending the protest to the Rotunda, over 100 people in wheelchairs chained their chairs together and announced, "If the United States government is not prepared to give us our civil rights, then they will have to arrest us and carry us out of this building" (Disability Rag, 1990: 21). Which is unfortunately what happened.

## DEALING WITH CONTROVERSIES

Although most of the weakened amendments were handily defeated, there were noteworthy disputes in some areas. Among the issues disputed were damage payments for discrimination, vagueness of the bill's language, costs of accessibility accommodations, and employment of food-handlers with AIDS.

Representing their business constituency, the administration opposed the initial bill's stipulation that persons who face discrimination can sue for monetary damages. In exchange for supporting the bill, the administration insisted that remedies for discrimination must be the same as those given to women and minorities in Title VII of the 1964 Civil Rights Act, which did not include damage payments. This compromise was palatable to the Democrat sponsors of the bill who advocated for acceptance of the plan (Rovner, 1989: 2319). Subsequently, in response to several Supreme Court rulings, a civil rights coalition, including disability groups introduced separate legislation to amend Title VII. Included in the new legislation was an allowance for damage payments (Rovner, Almanac, 1990: 448).

The administration wanted to ensure that payment for damages would not apply under the ADA. They told the sponsors of the bill that unless the link of the ADA to Title VII — the tie that the administration had previously demanded — was dropped, they might withdraw support for the bill. The ADA backers refused to concede and the administration dropped its demand (Rovner, Almanac, 1990: 448 & 1657).

Businesses felt that the ADA's language made it difficult to determine what was required and that this would result in expensive lawsuits for non-compliance (Rovner, Report, 1990: 1478). In the bill, a person was defined as disabled if they had a physical or mental impairment that substantially limited one or more of the major life activities, had a record of such impairment or were regarded as having an impairment (Rovner, 1989: 1221). Employers were to make "reasonable accommodations" for disabled workers which would not pose "undue hardship" (Rovner, Almanac, 1990: 447). "Readily achievable modifications" were to be made in existing facilities to make them accessible (Rovner, Almanac, 1990: 448).

Ironically, many people in the disability movement were also wary of the vagueness of some compliance language. They feared that when discrimination cases were heard in the courts, the language would be interpreted in favor of businesses. However, they recognized that this type of verbiage was necessary to enact the ADA (Molloy, 1992). As a rule, legislation that is

written broadly tends to pass, since it frees lawmakers from taking controversial stands. The benefit of this act was that it was written fairly broadly (Peters, 1993: 73).

Small businesses and transportation companies also felt the price tag would be exorbitant to make facilities and transit systems accessible. Greyhound Corporation estimated it would cost them \$78 million a year (Karr, 1990: B1). Led by the National Federation of Independent Businesses, companies lobbied heavily to weaken the accommodation provisions (Rovner, Report, 1990: 1355).

***It was in the House where disability advocates met their chief opponents: the business lobbies and their conservative government backers concerned with compliance costs.***

In conjunction with supporters in the Administration and Congress, the disability coalition activated all of their resources. Administration officials told businesses that many of the provisions would not be costly to implement (Rovner, Report, 1990: 600). Experts from the federal Architectural Barriers Compliance Board and the coalition were brought in to advise the business community and their supporters on inexpensive compliance measures. The disability grassroots networks began letterwriting campaign urging congressional members to support a strong bill (Silverstein, 1992). Finally, congressional supporters of the ADA negotiated compromises which delayed certain compliance deadlines for a number of years and provided tax credits for making accommodations accessible (Karr, 1990: B2). Both sides registered gains and losses on the public accommodation issues.

The coalition also held to the commitment to maintain disability as a class. They refused to accept that civil rights were for all people, except those with AIDS. Having traditional civic and religious groups as part of the coalition helped legitimize their position and bring about the amendment's downfall (Silverstein, 1992). The final draft of the civil rights bill was enacted by an overwhelming bi-partisan majority and signed by a Republican president.

## CONCLUSION

The disability rights movement played a key role in shaping and passing the Americans with Disabilities Act, which mandates equal citizenship for more than 43

million Americans with disabilities. Their victory was the result of decades of political and legislative action. Learning from the strategies of — and forming alliances with — other civil rights groups, they framed their exclusion from society as a discrimination issue, established that the disabled faced exclusion as a “class” and demonstrated that they were a powerful constituency. The movement put disability rights on the national agenda. Once the ADA was introduced in Congress, they mobilized a massive, broad-ranged, and unified “army” to win the battle for equal citizenship. They lobbied members in Congress and the Administration and provided technical assistance to and grassroots support for their allies in both branches of government. They dealt with the bill’s chief opponents — the business lobbies, and their backers in Congress and the administration — by helping defeat many weakening amendments and by compromising on others.

How much the disability movement gained and how much it lost is still to be determined. Will the vagueness of the Act’s compliance language primarily benefit the business or the disabled community? Will more disabled persons be employed and be able to fully participate in all aspects of American life? Many people in the disability community feel that this will be ultimately determined in the courts. In any event, the movement set a standard through the ADA: Exclusion will no longer be tolerated. ♦♦

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Jean Schnall has a long-time interest in and involvement with social justice movements.



# Practical Applications of an Incident Sensitive Ethical Decision Model

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Edited by Timothy A. Rodrigues

This paper presents a theoretical and practical framework in which individuals make ethical decisions. When the ethical constraints of the individual and the organization are dissimilar, conflict results. Thus, no discussion of ethics can be complete without some discussion of the legal ramifications, and in particular, "at will" employees are at great professional risk when their ethical values force them to take positions that appear to oppose organizational policy. Discussion of these issues is organized in the following way; the model is discussed and applied to several scenarios, situations and motivations for whistleblowing are explored and finally the rights and responsibilities of employees faced with wrongful discharge are considered.

## INTRODUCTION

The workplace environment in which an employee in a organization makes ethical decisions is both a function of individual and organizational values. Organizational values may be communicated to the individual through cooperative or adversarial mechanisms. In fact the responsibility for harmony is reciprocal. Everything that occurs there is a balance of employee and employer freedoms. The principle of reciprocity in employee / employer accountability relationships operates something like this:

If I am accountable for my actions to a certain group or institution because of my role in that group or institution, this accountability implicitly assumes a reciprocal accountability to me on the part of the institution to whom I am answerable. The obligations in each relationship are not necessarily contractual but the strength of my role obligations depends at least in part on equally forceful, though obviously not identical, role obligations of the second party to me. And if no such reciprocal obligations exist or if they are not respected, my accountability to that individual, group, or institution weakens. (Werhane 1987)

As a matter of practicality, this weakening frequently leads to an adversarial relationship. To a great extent, the success of an organization in creating a positive

environment, with an emphasis on productivity within the constraints of ethical behavior, is dependent on the basic strategies employed. If an organization communicates a rule orientation through strict liability type codes or rigid communication policies, the employee may be less likely to embrace the ethical standard thus set. Inevitably, lawsuits and poor work place conditions follow.

If, on the other hand, the organization displays a commitment to a mutual process of ethical behavior definition, employees are more likely to respond positively. Human relations approaches in which employees are viewed as partners in this process would improve the work environment and present a positive image to those outside the organization as well. A private sector example of this cooperative concept comes from City Corp. In order to teach employees the ethical culture of the organization and encourage compliance with informal internal peer control, they have designed a game designed to generate dialog on ethical questions. This approach gives a message to employees that ethics is an important part of the corporate culture, and that it is an acceptable subject matter for employees to broach with their superiors (Ireland 1991).

It might be effectively argued that advocating an environment of pure cooperation is unrealistic and ignores the realities of adversarial relationships of both the

work place and human nature. But, the purpose of presenting this idea is simply to identify an organizational environment in which individuals function well together, and to hypothesize that an atmosphere of cooperation might be more productive than one of legal conflict (Osigweh 1990).

What follows is a presentation of a theoretical and practical framework in which individuals make ethical decisions. When the ethical constraints of the individual and the organization are dissimilar, conflict results. Thus, no discussion of ethics can be complete without some discussion of the legal ramifications. In particular, because their grievance process is not governed by contractual relationship, "at will" employees are at great professional risk when their ethical values force them to take positions that appear to oppose organizational policy.

First, an integration of theory and practice for individual ethical decision making in an organization is set forth. It is an exploration of how ethical decision model might imply choices in various practical situations involving ethical issues, and a discussion of possible ramifications. The model includes identification of situations raising potential ethical questions, and explores motivations to act after ethical questions are identified. The model examines many factors that are a part of the decision making process. Various scenarios, particularly common to local government public employment, are explored using the model and a survey of Canadian municipal managers as a reference.

Finally, the negative possibility of adverse action will be explored in the case of two further issues. First, the implications of an employee's decision to "blow the whistle," in a circumstance in which an ethical boundary has been crossed, will be explored. Second, once the whistle has been blown, the rights of that employee with regard to fair treatment and continued employment must be considered. It is crucial to explore the integration of ethical decision making and the practical issues that confront the ethical decision maker in the work place environment.

## THE ISSUE—CONTINGENT MODEL

An excellent review of the research on ethical decision models is given by Thomas M. Jones (1991). He concludes that existing theoretical models have placed little or no emphasis on the characteristics of the ethical issue itself when defining steps taken in the ethical decision making process (Jones 1991, 366). His model adds a very important element to existing formulations—Moral Intensity. The emphasis placed on analysis of the moral issue is a departure traditional ethical

research. While the decisions of the individual are important, response to ethical questions is very dependent upon the nature of the ethical question. It is important to fully explore the nature of a moral issue prior to any decision to act. This particular model has been chosen because of its emphasis on this aspect of moral decision making. It will be applied without significant alteration.

A schematic of the model below (figure 1, page 31) facilitates the discussion. Various elements will be discussed thereafter, at some length. Three important terms must be defined at the outset. A *moral issue* is when a person's actions, freely performed, may harm or benefit others. A *moral agent* is a person who makes a moral decision (a moral agent is not required to know that moral issues are at stake). *Ethical decisions* are those that are both legally and morally acceptable to the larger community.

In general, *Moral Intensity* is a characteristic of the moral issue itself, not of the decision maker or organization (Jones 1991, 372). However, it would be unwise to consider these questions outside the individual's perceptions of them. In many cases, less than perfect information may lead to ethical decisions in which the actual consequences are not thoroughly known. The dimensions of Moral Intensity are summarized here:

- **Magnitude of Consequences** refers to the sum of the harms to victims. Essentially, this is the capillary effect of an action—the sum of direct and indirect effects. Total magnitude may be difficult to assess due to potential extended effects. For example, the decision to grant a sewer permit when the plant is at capacity has direct effects on the community. It also may have long term effects on ecosystems (particularly if sewage gets into the water table) in the area that would be difficult to know in advance.
- **Social Consensus** evaluates the degree to which a proposed act is right or wrong. This factor cannot be considered separately from the rest. For example, few would say that the granting of a sewer permit above is inherently wrong; however, one would expect considerable consensus that granting such a permit, when the harms of over capacity are known and probable is inappropriate and probably unethical.
- **Probability of Effect** is the joint probability that the act will occur and will actually cause the harm predicted. All of the other factors play a role in the probability of occurrence; thus probability is a by-product of interaction

of the other elements. The probability of harm is difficult to assess. In the sewer permit example, it may be difficult to say whether overflows will actually occur and to what effect. This discussion points out the important element of the model, that these factors are characteristics of the *issue*, not the moral agent. However, it would be difficult to assess an individual's ability to assess probability of effect without knowing how that person understands the issue of risk.

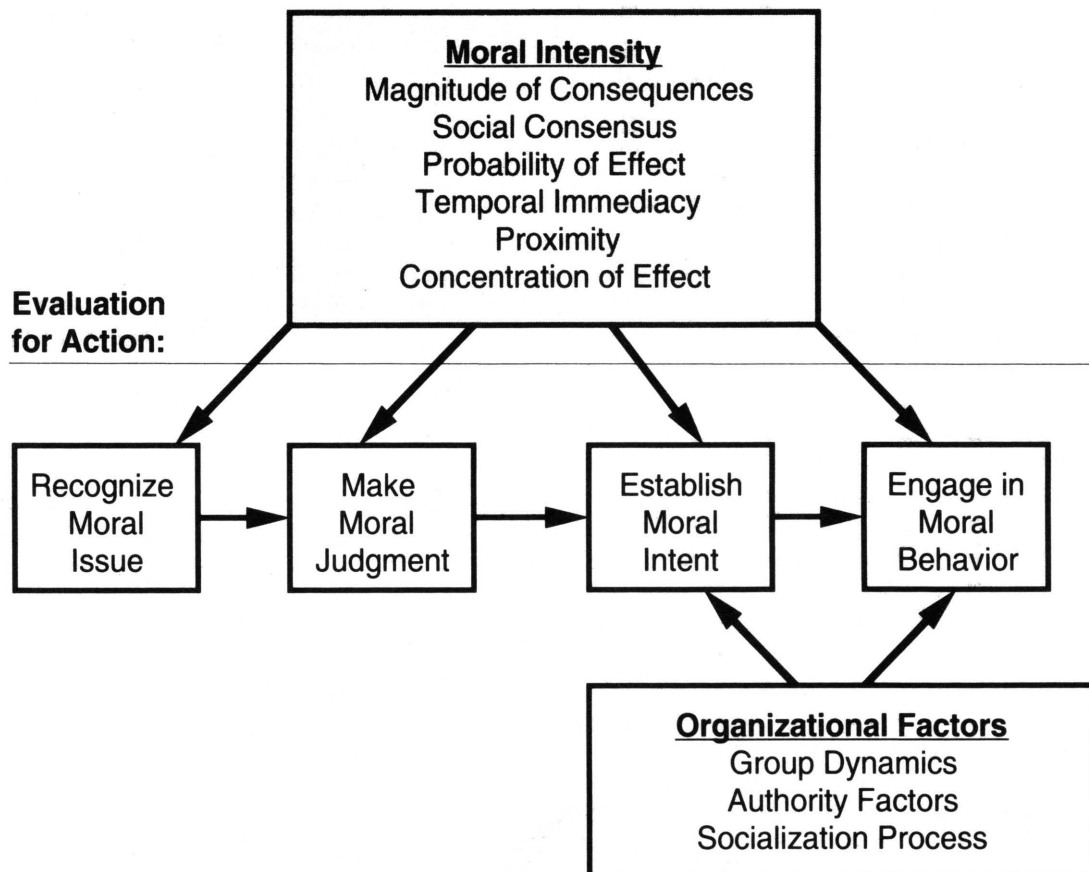
- **Temporal Immediacy** is a function of the length of time between the present and the onset of consequences. *Probability of effect* cannot be known without considering the time frame of effect. People value future harms less than present harms; thus this would again be a function of the moral agent's understanding of the consequences.
- **Proximity** is the feeling of nearness (social, cultural, psychological or physical) that a moral agent has for the victims. Again, we cross the fine line between consideration of the characteristics of the issue and those of the moral agent.

- **Concentration of Effect** considers the number of people affected by an act of given magnitude. A moral agent may be less likely to recognize a moral issue with minimal harm to few people than one with greater harm to many. The distinction is not so clear cut when a large harm effects few people. In this case, the dimension of Magnitude of Harm might carry more weight in the actual decision.

These dimensions are ordinal in character. That is, the exact magnitude of any given factor in the decision equation is unknown. Also, it is quite certain that the elements are interactive. Although not empirically established, some possible interactions have already been suggested. Further hypotheses about interaction of the dimensions of Moral Intensity will be made during application of the model to specific scenarios.

Moral intensity is based on a sense of moral responsibility which has its roots in moral philosophy. Every phase of the moral decision making process is effected by this element. For clarity, ethical decision making based on moral intensity has been labeled "Evaluation for Action," and is represented in the model by the

**Figure 1 - Issue Contingent Model of Ethical Decision Making**





second row of boxes. The magnitude of moral intensity is associated with the type of goodness or evil involved, the urgency of the situation, certainty or probability of effects, extent of the moral agent's influence on events and availability of alternative means. It provides focus for the succeeding steps in the process of "**Evaluation for Action**": *Recognize Moral Issue, Make Moral Judgment, Establish Moral Intent, and Engage in Moral Behavior*.

Organizational Factor—such as group dynamics, authority factors and socialization process—directly affect the model elements: Establish Moral Intent and Engage in Moral Behavior. Although minimally discussed in context of the model, these elements will be explored in the scenarios that follow. For example, these elements certainly play a very significant role in the moral agent's decision on whether to blow the whistle. In that context, other studies suggest that characteristics of the individual play a significant role as well (Miceli 1991). These issues will also be explored further in the context of whistleblowing.

## APPLICATION OF MODEL: WHISTLEBLOWING AND PRIVACY

Having described the basic theoretical model, it will now be used to analyze a practical scenario. It was not chosen at random; rather, it is an issue of current importance to local administrators.

In the vignette "Too Close for Comfort," the questions of whistleblowing and privacy are taken up in the context of partisan political activity. A public servant working for a municipality is told by her supervisor that she must ask her roommate to move out because the roommate is a well known political activist who has been very critical of the work in the public servant's office. The public servant refuses. Her supervisor threatens to transfer her to a "less sensitive" position with a loss of pay and a possible interruption of future advancement if she does not ask the roommate to leave. The civil servant tells a news reporter about her troubles, hoping the public will be informed.

For this vignette, the process of recognition and judgment that a moral issue is at stake can be handled by the model. However, the decision whether to and where to blow the whistle is very complex. For conclusions on whether the media is an appropriate vehicle and the probable consequences of the act, the section on Implications of Decisions to Act on Ethical Situations section should be consulted. That section presents the proposition that the decision to engage in whistleblowing cannot be understood solely in the context of the potential ethical violation, but must also consider the nature

and personality of the potential moral agent.

This case of whistleblowing involves a set of facts that limits the analytical need for the model. It is a very personal between the public servant and the administrator. The issue at stake is whether it is appropriate for a boss to threaten an employee's professional future for failure to comply with an order that does not directly relate to the employee's performance; which is in fact a question of with whom to associate. Most would claim that this is a matter of great moral intensity, with many ramifications for personal freedoms and hostile work place. With this in mind, it should be a relatively simple matter to establish moral intensity by the function of the model. The interest from the scenario comes at the point of her decision to act.

## APPLICATION OF THE MODEL

*Magnitude of the consequences, social Consensus, probability of effect* are great. Personal freedoms are involved, rights to associate, issues of whether an employer can exercise control over an individual, are all at stake.

*Proximity* is very significant because the person harmed is the moral agent. *Concentration of effect* is minimal in this case unless you consider the precedent that allowing these things would establish. This is an extremely important question.

## SURVEY RESULTS AND DISCUSSION

The survey results regarding whether the supervisor was being ethical strongly support the conclusion from the model. Ninety-five percent of respondents felt that the supervisor was unethical in his demands. Particularly, about 85% felt that threatened transfer was unethical. However, about 88% felt that it was wrong for the employee to tell her story to the press, even though doing so broke no law. Because the alternatives for moral behavior are significantly varied in the case of whistleblowing (that is, the methods for blowing the whistle are diverse), and each method carries its own set of consequences, an expansion of the issues considered for engagement in moral behavior is required. The next section deals with this issue.

## IMPLICATIONS OF DECISIONS TO ACT ON ETHICAL SITUATIONS

The decision to blow the whistle can be a very difficult one and is always fraught with difficult tradeoffs. The previous applications of the model have suggested ways in which various issues can be approached. How-

ever, resolution of moral questions can be significantly more difficult. For this reason, whistleblowing is now discussed in more depth—from the motivations of a whistle blower to possible legal ramifications of the act.

***Whistleblowing can be a mechanism by which high standards of an organization are maintained. There is cost to the individual whistleblower, however.***

As intimated in the scenario, the consequences of whistleblowing are an important aspect in establishment of moral intent; particularly of the decision to engage in moral behavior (aspects of the ethical decision model). Organizational as well as individual factors enter into the decision making process of whether to blow the whistle. In this section both the process that goes into the decision to blow the whistle and consequences are discussed. At this point, the application of the model is implied but not directly referenced. The exact formula of the model can be difficult to apply directly to complex ethical issues on the workplace. The exercise of applying the model provides a solid analytical background. This basis must be expanded to embrace both the ethical question and the situation of the ethical decision maker. With this short explanation, the paper returns to the discussion of whistleblowing.

Whistleblowing can be a mechanism by which high standards of an organization are maintained. There is cost to the individual whistleblower, however. In an excellent statistical analysis of Internal Audit Directors in public and private organizations, Miceli, Near and Shwenk researched this topic at length in terms of the qualifications required for individuals to become whistleblowers, and some of the ramifications (Miceli et. al. 1991). Elements of their research will be used to analyze perceptions and characteristics of the individual moral agent as a factor in the decision to act.

The Jones ethical decision making model emphasizes characteristics of the issue, not the individual, in the ethical decision making process. At least in the area of whistleblowing, the values and perceptions of the individual must be considered. To this end, the analytical procedures by which an individual makes this decision augment the model at the point where the whistleblower has identified a moral issue and is contemplating action.

## ANALYTICAL PROCEDURES FOR DECIDING TO BLOW THE WHISTLE

Miceli et. al. (1991) hypothesize a four step analytical process through which a potential whistleblower goes. (The first two steps are covered extensively by the model previously discussed; both of these issues relate to the moral intensity of the issue itself.):

1. Recognition of the wrongdoing—It seems that a potential whistleblower must evaluate whether the organization is aware of its existence.
  2. Whether or not the activity warrants intervention is then considered—the whistleblower evaluates whether the situation is, or will become, intolerable.
  3. The potential whistleblower then considers whether she/he is responsible for taking action.
- If the answer is no to any of the above questions, no action will be taken.
4. If the above three tests are in the affirmative, the potential whistleblower determines what actions are available, evaluates the appropriateness of the actions, and weighs the costs and benefits.

If action is warranted given the analysis in (4), the whistleblower must then determine who to tell.

The potential whistleblower must then consider personal issues. Those employees that view their own job performance relatively low, or who tend to work in a highly bureaucratic organization are less likely to blow the whistle (Miceli et. al. 1991). In fact, the whistleblower's strategy is frequently improvement of the organization (Farrell & Paterson 1982). Therefore, low perceived peer acceptance or respect will reduce the chance of whistleblowing (Miceli et. al. 1991).

It seems as though workers with established lifestyles would be less likely to report wrongdoing because of their relatively greater stakes. During times of economic downturn, it is improbable that many would opt for the hazardous and job threatening course without an ethical issue of great magnitude.

## COSTS AND BENEFITS OF WHISTLEBLOWING

The next step is to weigh the costs and benefits of blowing the whistle in a particular case. An obvious benefit is when the organization has internal control that insures ethical and responsible discharge of its

duties. But at what cost to the individual and organizational environment is this benefit won? In most cases the individual faces sanctions and must be willing and able to defend the findings. This takes a rare individual. Often the work environment afterward is not improved for the individual; job sanctions are to be expected.

Given these negative ramifications, whistleblowers may be more powerful when the activity is legally encouraged by establishment of offices to serve as complaint recipients or through regulatory agencies for reporting of wrongdoing. This takes some of the pressure off the individual whistleblower to confront intra-agency management where the threat of personal retaliation is substantial, while providing a recourse other than the media for adjudication and resolution of the situation. application of the analytical procedures to the whistleblower scenario.

In the scenario above, the initial stages of decision making about the ethical issue are easily made. Survey respondents showed a great deal of consensus on the fact that an ethical issue was involved. Where the public employee erred in the decision making process was at the point of weighing the appropriate action. Numerous outlets are available to the potential whistleblower, both internal and external.

Where an individual reports an ethical violation is often a function of the identity of the harm recipient or the magnitude of the offence. Particularly, if the victim is a co-worker, internal reporting is usually preferred. Usually outside reporting, such as happened in the vignette, is reserved for cases of great public harm—high moral intensity (Miceli et. al. 1991, 116). The public employee in the vignette should probably have given more consideration to the effect of her actions, and reviewed the options and outcomes more thoroughly prior to reporting the issue to the press, "hoping that the public would find out about it."

For example, she might have pursued a cause of action for harassment under the First Amendment and Title VII of the Civil Rights Act of 1964. While this course of action is nearly as extreme, it opens a dialog about the question of work place environment and inappropriate supervisor actions in a factual environment. The danger of involving the press in the initial phase is that handling of the subject matter is now out of the hands of the person aggrieved. Inappropriate or not, giving the matter to the press at such an early juncture was probably unwise.

## POSSIBLE RAMIFICATIONS OF WHISTLEBLOWING

Protections against wrongful termination and work place hostility are of considerable importance. However, it is very important for employees to understand that they have responsibility as well as rights that accrue from the work place. This joint responsibility is tested when the of an moral agents perception of duty runs contrary to financial or public relations interests of an organization. In these circumstances, the moral agent runs very serious risk of organizational sanction. Because keeping one's job must be an important factor in the decision to report wrongdoing, this section will discuss the situations in which hiring and firing of an employee are justified and what remedies are available to the wrongfully discharged employee. This has an indirect relationship to the question of ethical actions and whistleblowing in that employees that engage in such behavior against the will of the organization are at risk of unjustified dismissal.

Rules on employee rights and employer obligations surrounding unjustified dismissal, have long been established for employees with collective bargaining agreements. Many employees, both managers and others without collective bargaining agreements serve at the pleasure of their supervisors. In the past these employees had no legal recourse for wrongful discharge. As will be seen, however the at will doctrine is steadily being eroded by the courts and statutes of various states. This legal and statutory superstructure is required primarily because of failure of the cooperative human relations approach to the issue of employee / employer relations. In the meantime, one must be aware of the available remedies in order to insure at least fair treatment, if not harmonious a work place.

## PROTECTION OF "AT WILL" EMPLOYEES

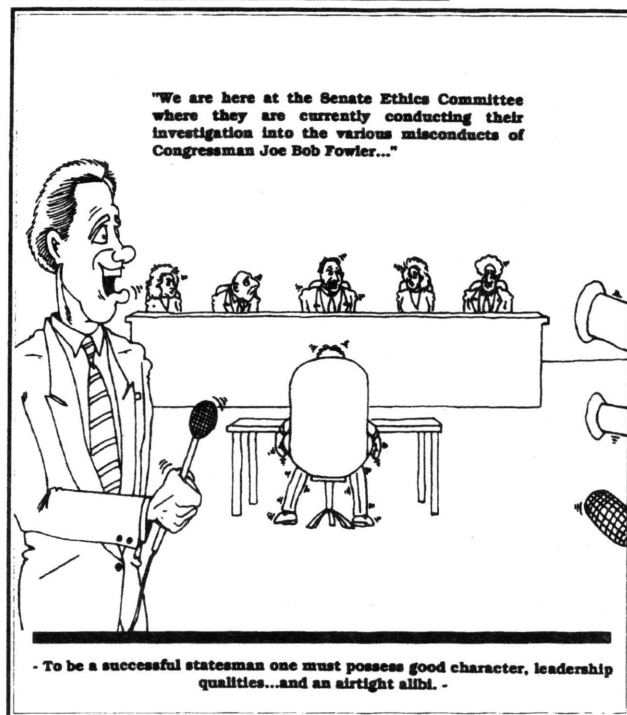
### RETALIATION: A PUBLIC POLICY TORT

"At will" employees serve at the pleasure of the organization. Typically, justification for firing such an employee is not required. However, employees have certain inherent work place rights. In this section, protections will be discussed as well as remedies (Harvard Law Review, June 1980; Martin 1987; Gilles and Trudeau 1991).

In 1980 Professor Summers laid out the fundamental problem; unequal treatment of employees. Those that are covered by collective bargaining agreements cannot be fired without just cause (through their contrac-



## WHUMPERWORLD BY BANNING



tual relationship), while at will employees are not protected in such a manner (Summers 1980). The common law does not recognize just cause as a source of action for wrongful dismissal. He advocates legislation that would extend just cause protection to at will employees, and would establish arbitration procedures for handling complaints. So far, no such umbrella legislation is forth coming. But, public policy protections are extended to employees that are discharged, disciplined or otherwise receive adverse treatment while acting in accordance with a statutory or fundamental right or duty. Examples of this protection are the Whistleblowers Protection Act of 1989 (federal employees), Occupational Health and Safety Act, the National Labor Relations Act, Title VII of the Civil rights act of 1964, and others.<sup>1</sup> This is an expansive area of the law, one that should not be underestimated. This work hits the tip of the iceberg with an example from the Whistleblowers Protection Act. It should by no means be considered an exhaustive treatment of the subject.

The Whistleblowers Protection Act has been construed to extend beyond discrimination to a report of a law violation [such as remarks to a city commission regarding the city's suspected illegal acts *Hopkins v. City of Midland* 158 Mich App. 361 (1987)]. A limitation of the doctrine is that courts generally do not allow employees to disguise insubordination and personal complaints as speech on matters of public concern. Motivation and work place effect must also be considered

(Norris 1991/92, 480).<sup>2</sup> For example, in *Wolcott v. Champion International Corp.*, 691 F. Supp. 1052 (WD Mich, 1987), defendant company announced economic cutbacks. Plaintiff thereafter wrote a letter to company threatening reporting of numerous work place violations if the cutbacks were to take place. Plaintiff was suspended for blackmail pending investigation of his charges. Plaintiff then filed several complaints with Public Health and Department of Labor claiming discrimination. Defendant eliminated plaintiff's position, and he was terminated. Plaintiff filed claim under Whistleblower's Protection Act. In rejecting the claim, the court stated that it could not show that the company's reasons for suspension (the extortion attempt) and the discharge (due to economic cutbacks) were a pretext for retaliation. In its opinion, the court stated that these were not the type of protections contemplated under the act, The Whistleblower Act was not intended to serve as a tool for extortion. Those availing themselves of its protection should be motivated, at least in part, by a desire to inform the public about violations of laws and statutes, as a service to the public as a whole.

As alluded to in *Wolcott*, employees normally face a difficult burden of proof under these statutory protections. For this reason, there is a growing body of civil law for employee protection. One such tort is retaliation. With this cause of action, if plaintiff can show that s/he was engaged in a protected activity (statutory), was an object of an adverse employment action, and that there was a causal nexus between the two, the burden of proof shifts to the defendant to articulate a legitimate, nondiscriminatory reason for the action. Plaintiff must show that the action was a pretext for retaliation and that the protected activity was a significant factor in the employment decision (Norris 1991/92). Courts are likely to find that a protected activity is a significant factor in the adverse employment decision when "the change in the attitudes and actions of the defendants before and after the speech (protected action) is too compelling to ignore [*Meyers v. City of Cincinnati* 934 F2d 726 (6th Circuit 1991)]. Ms. Norris has an excellent discussion of how the retaliation tort theory has been extended to protections under the Constitution and civil rights statutes.

## WRONGFUL TERMINATION STATUTE - A CALIFORNIA PERSPECTIVE

The situation in California is similar. At will employees have no statutory protections, but the doctrine is being eroded by court interpretations. Joseph Grodin of Hastings School of Law states that this is because at will principles are increasingly incongruous with the legal

and social fabric of which it is a part.<sup>3</sup> In addition the at will doctrine is out of step with the rest of the world. A convention of the International Labor Organization calls upon all signatory countries to adopt an employee protection statute. The United States is alone among signatory nations in not having done so (Grodin 1990).

California does provide a public policy exception to Labor Code §2922 giving an aggrieved employee the right to tort action: "(in part) An employment, having no specified term, may be terminated at the will of either party on notice to the other. Employment for a specific term means employment for a period of greater than one month." However, Professor Grodin gives several reasons to argue that this is not a question that should be abandoned to the common law. Many at will employees are managerial or professional, and have sufficient resources to clog the courts for years. In fact, a Rand Institute for Civil Justice study showed that of 120 wrongful termination suits between 1980 and 1986, 55.4% of plaintiffs were executives or middle management employees (Grodin 1990, 140). Other at will employees do not receive protection because of their limited financial or political strength. Also, some employees have express at will provisions in their contracts and are not even protected at common law.<sup>4</sup>

## REMEDY FOR UNJUST DISMISSAL

So, at will employees should probably receive protections for wrongful termination. Assuming this, we turn to potential remedies for employees found to have been wrongfully discharged.

Generally, two types of remedies are available. Court relief is limited to monetary compensation because the common law does not provide for strict performance of a contract as a remedy. Although monetary remedies are desirable as an element of the total remedy, they should not be the only relief available. By their nature, they do not provide the aggrieved party any continuing relief. Legislative remedies, on the other hand, are not limited by judicial precedent. In the legislative environment, reinstatement is a possibility (Gilles & Trudeau 1991).

In a Quebec study, Gilles and Trudeau (1991) found that half of their respondents that had a reinstatement order did not return to work. The major reasons were petition by their employers for judicial relief, or simple refusal to honor the order (sanctions for refusal to honor the orders, while available, have not been generally applied). Of those reinstated, over 40% subsequently quit, most of them in the first few months after return. This study shows that it may be quite difficult for an employee found to have been wrongfully dis-

charged to assimilate back into the organizational culture. So, even if protections are granted, the reality is that the potential remedies are not particularly satisfactory.

## CONCLUSION

This has been a rapid look at the Jones ethical model and its application to several scenarios, whistleblowing as an ethical action, and dismissal rights and remedies for at will employees. Use of the principles of the model suggest that an individual can follow a structured decision making procedure for identifying ethical situations in the work place. The major purpose of this work has been to stipulate thought on a variety of ethical issues, and to suggest ways in which an analytical approach is the springboard for development of intuition about ethical issues.

One final thought is in order. Ideally, the complexities of an ethical decision would be reduced by the development of a general atmosphere of cooperation between management and employees. This would evoke an environment of cooperation in which the moral agent is free to exercise judgement about moral issues without fear of significant negative repercussions. This concept has implications for both employer and employee. Under an environment of cooperation is one in which a moral agent is free to exercise judgment about moral issues. This has implications for employer actions as well as those of the employee. Under such a structure, the adversarial role of the legal system might be largely avoided. In the meantime, however, the ramifications of action or inaction when faced with ethical questions must be considered. In this regard, whistleblowing and the legal rights and responsibilities of employees with respect to their longevity in the particular work place must be addressed and understood. Employees are as responsible for the environment of their own work place as managers. Integration of the elements of cooperation, legal rights and legal responsibilities is critical to understand the environment in which the public employee engages in ethical behavior. ♦♦

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<sup>1</sup> Norris, Megan P. "Limitations on an Employer's Ability to Discipline Free Speech," *Employee Relations Law Journal*, Volume 17, No. 4, (Winter 1991 / 1992) p. 474. See also, Taylor, Tommy W. and White, Penny J. "Employee Rights from the Government Perspective: An Overview from the Practicing Attorney's Viewpoint," in Osigweh, supra footnote 1, pp. 53-60; in which employer responsibilities are characterized as either mandatory (by statute), or voluntary. It is in the area of voluntary rights that organizations can communicate their commitment to reciprocal responsibilities most effectively to their employees.

<sup>2</sup> See also, Sanders, Wayne "Freedom of Speech and Private Sector At-Will Employment: Implications for Society, the Individual and Management, in Osigweh, supra footnote 1, pp. 65-71; in which the author identifies interests at stake as public, worker, and organization. Application of freedoms is a balancing process between competing interests. Extension of speech freedoms is particularly threatening to large organizations, but adaptation will be required.

<sup>3</sup> Grodin, Joseph, "Toward a Wrongful Termination Statute for California," *Hastings Law Journal*, Volume 42, (November 1990), p. 135-160.

<sup>4</sup> See, for example, *Wilkerson v. Wells Fargo Bank* 212 Cal App 3d 1217 (1989) - efficacy of at will disclaimers in employment contracts subject to review. The at will presumption can be negated by implied as well as express contractual provisions. Theoretically it is possible to establish, as well as negate, the at will presumption. Because at will principles are widely codified, their establishment has not heretofore been necessary.

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# The Residential Lead-Based Paint Hazard Reduction Act of 1992

Written by Jean Fichtenkort

Edited by Julie Taylor

Lead is a powerful neurotoxin often found in water pipes, soil, and paint. When ingested, primarily by children, this toxin can be extremely harmful, causing developmental damage and behavioral problems. Finally, after years of neglect, the United States government has taken action against this hazard through passage of a comprehensive lead abatement bill. The bill strives to confront with lead's existing and potential dangers via federal funding, standardized abatement practices, and regulations regarding disclosure for the real estate industry.

## INTRODUCTION

Lead has been a valuable resource for over 2000 years, lending its diverse characteristics to several aspects of daily life. The Roman Empire used lead effectively as a pottery glaze and as ballast added to stabilize ships (Franklin, 1991). Its durability and malleability contributed to its early popularity for use in such household items as plates and goblets. However, lead has also been identified as a toxin, leading to illness or death for those over-exposed to the substance. Too often, lead comes into contact with people. Whether it is in paint, pottery, water pipes, fuel or industrial emissions, lead will eventually contaminate anything it contacts. When this happens, especially with young children, the results are deceptively cruel and devastating.

## PHYSIOLOGICAL BACKGROUND

Lead-poisoning is the leading environmental health hazard facing young children today. According to the Federal Centers for Disease Control (CDC), one out of every six children suffers from overexposure to this metal. There are several sources for lead exposure in communities. Many structures are covered with lead-based paint, which with age peels and flakes to produce dusty particles. Consequently these particles are inhaled or ingested by anyone in the proximity of the structures. In addition, people are exposed via soil and water that have been contaminated by automobile or industrial emissions and also through the use of lead in the manufacturing process of some pipe companies.

Lead is a very powerful neurotoxin which will interfere with the development and functioning of organs and systems within the body if ingested over a long term. Children are most at risk for suffering various degrees of brain damage, because their rapidly growing systems are especially vulnerable. Tests have shown that exposure to high concentrations of lead leads to learning difficulties such as distinguishing patterns and shapes or manipulating objects. In toddlers this may mean being unable to fit a peg into the corresponding hole, and in school-age children it can mean the inability to recognize letters or numbers, resulting in developmentally disadvantaged children. Behavioral problems are an additional side effect of lead exposure; if a child's brain suffers damage to the cerebral cortex, he/she will be more susceptible to emotional outbursts (Franklin, 1991).

***Whether it is in paint, pottery, water pipes, fuel, or industrial emissions, lead will eventually contaminate anything it contacts.***

After exposure to lead, a child's bloodstream harbors the toxin for a few months until it gradually disappears, leaving no visible traces. This presented a problem for researchers, as they were unable to explain the symp-

toms when the child appeared to be physically healthy. Dr. Herbert Needleman, acting on a discovery that lead settles in bone and soft tissue, developed a method for testing schoolchildren's teeth, finally providing researchers with the ability to measure levels of lead in people (Franklin, 1991).

As more has been learned about the dangers of lead, the level of toxin thought to have an adverse impact on the body has steadily dropped. Over the past two decades, the CDC lowered the figure from 40 micrograms of lead per deciliter of blood to 10 micrograms. This is the equivalent of 120-millionths of a gram in the total bloodstream of a 35-pound child (Harris, 1991). Data from the National Center for Health Statistics indicate that 17 percent of all children, regardless of race or socioeconomic status, have blood levels in the toxic range. Being poor and of African-American heritage greatly increases the risk of lead poisoning. Evidence shows that 55 percent of this population is estimated to have blood levels considered neurotoxic (Needleman, 1991). This is a tragically high burden for an already disproportionately disadvantaged racial group to bear. The lack of power experienced by most African-Americans, both economically and politically, may have resulted in the problem worsening, because industrial leaders and politicians have felt little need to develop remedies for this invisible hindrance.

## SOCIAL IMPACT

In ignoring this toxin, policymakers may have inadvertently helped to create an underclass which has little hope of overcoming its circumstances in the near future. Studies suggest that most of the environmental and sociological factors experienced by those exhibiting criminal behavior are also either effects of, or risk factors for lead exposure (Needleman, 1989). Criminal behavior often appears early in life, a period of vulnerability to lead exposure in young children. The rate of criminal behavior as well as the degree of lead poisoning are higher in both African-Americans and in males. Victims of lead poisoning and criminals have lower IQ's, particularly in verbal scores, and generally come from inner-city backgrounds (Needleman, 1989). Certainly this information is not enough to form a causal relationship between lead exposure and criminal behavior, but the coincidences are alarming. Those over-exposed to lead consistently show increased hyperactivity and aggression, both known to be risk factors for anti-social behavior.

At this point, these associations are correlational at best. Studies are currently being conducted that may prove more positive results (Needleman, 1989). It can be reasonably assumed however, that disordered thinking, impaired impulse control, reduced verbal skills and increased school failure are recognized products of lead exposure. Together these increase the probability that some individuals will adopt anti-social responses to the challenges of society.

For all children, paint is the most important source of lead exposure. While lead can be ingested via contaminated waterpipes or soil, it is the paint on the walls and doorways of old homes that is the most accessible contaminant for young children who have a natural tendency to put things in their mouths (Needleman, 1991). Hands covered with dirt or paint chips from woodwork are edible to a very young child. Parenting skills are generally not at fault, as the ingestion of non-food items, or pica, is age appropriate. Instead the problem lies with the lack of action on the part of industry, real estate developers and government regulations. As many as 24 million homes still have toxic paint on their walls. Two million homes are estimated to have peeling surfaces and young children inhabiting them (Needleman, 1989).

***For all children, paint is the most important source of lead exposure.***

## LEGISLATIVE ACTIVITY

The federal government passed legislation in 1978 that banned lead in any new residential paint, although it continued to be legal for commercial and industrial use. Lead solder on cans was banned and leaded gasoline will be outlawed nationally by 1994 (Harris, 1991). Lead remains in our environment, and while this previous legislation was a step forward, the greatest danger exists in the form of painted walls and sills in pre-1978 houses. Unless both the interior and exterior of these homes have been completely stripped of their original paint prior to being repainted with a lead-free paint, the homes are still toxic. Congress passed the Lead-Based Paint Poisoning Prevention Act in 1971, requiring the federal Department of Housing and Urban Development (HUD) to remove lead from public housing, but the removal did not begin until 1979, and then it was only on the East Coast. It did not reach the West Coast until 1987. The project removes or neutralizes only lead-tainted entry doors, windowsills and outside fascia doors, and is expected to be completed by 1994 (Harris, 1991). However, while the housing authority tests paint, which contains as much as 50 percent lead by weight in older homes (Needleman, 1989), it does not do anything to measure lead amounts in the residents of public housing. This, as well as

renovation projects creating lead-tainted dust in the homes of anyone taking on such a project, would suggest that lead toxicity is still quite high in most areas of the population. A comprehensive plan including abatement, education, screening, and health care is necessary to eliminate the problem.

Apart from the previously mentioned federal actions, the history of lead prevention at the congressional level is sparse. Limited legislation during the 1970s and early 80s banned lead-based residential paint production and lead in fuel and batteries. Congress has been reluctant to deal with the larger issue of the public's health, as have so many government agencies, primarily because policy makers suggest the problem of lead pollution is too big to eradicate and it affects only those disenfranchised people who are unable to force action (Needleman, 1991). While it is true that the marginal population is disproportionately affected by lead hazards, the notion that the mainstream population is protected from danger is a false belief based on propaganda from the lead industry fueled by misconceptions intended to prejudice a society against the impoverished. Finally in the late 1980s, Congress chose to heed the advice given by health professionals, environmental specialists and children's advocates, and introduced a series of bills designed to facilitate reduction of lead levels in children.

Between 1988 and 1992, twenty bills relating to environmental lead hazards were introduced in Congress. Two of these bills became law. The first in 1988, mandated lead-free drinking water in public schools nationwide, and the next, in 1992, amended certain housing and community laws. Of the remaining eighteen bills, nine were partially incorporated into the bill that passed in 1992 (Congressional Records, 1988-92). This bill, HR.5334, introduced in June of 1992 by Rep. Gonzalez (D-TX), was a comprehensive housing bill, amending several different laws. One of these laws became Title X, the Residential Lead-Based Paint Hazard Reduction Act of 1992. Title X provides grants to reduce and eliminate lead-based paint hazards in housing, as well as develop guidelines for compliance by the various organizations directly affected by the new law.

## TITLE X

Title X, passed on October 28, 1992, was a small part of a comprehensive bill addressing a multitude of housing-related issues. Sen. Alan Cranston (D-CA), although not a credited author of HR.5334, was influential in writing Title X. He introduced S.2341, the Residential Lead-Based Paint Hazard Reduction Act of 1992, into the Senate in March 1992, but no further action was taken. Rep. Gonzalez then adapted the

Cranston bill to become Title X of his own comprehensive housing bill, and while he sponsored HR.5334, Cranston authored Title X.

The Cranston bill shifts emphasis from the mere presence of lead paint to prevention of lead-based paint hazards, including chipping or peeling paint and excessive lead in surface dust and soil. While prior legislation focused on the presence of lead paint, making it very difficult to know how to begin eradication, Title X focused on the hazards, allocating resources according to priority. Risk assessments, inspections and permanent abatement of hazards in federally assisted housing (pre-1978) must be performed by January 1, 1995. Title X authorizes \$250 million for the 1994 fiscal year and \$125 million for the following year to be used in the HUD competitive grants programs. These programs are designed to allow state and local governments to evaluate and reduce lead-based paint hazards in low-income housing and in Section 8 tenant based rental housing.



Beginning January 1, 1995, all federal agencies which sell pre-1960 housing must inspect and abate lead-based paint hazards before property is sold or transferred. All housing from 1960-1978 must also be inspected and potential buyers must be notified of the results. As of January 1, 1996, buyers of pre-1978 housing must receive a lead hazard pamphlet designed by the Environmental Protection Agency, and ten days in which to receive a lead hazard risk assessment or inspection. In the final property sale contract the buyer must be given a lead warning statement. Sellers are required to disclose the presence of lead-based paint (if known) to buyers. In addition, landlords of pre-1978 housing must disclose any presence of lead-based hazards to renters who must also receive the EPA pam-



phlet. This means that landlords are expected to participate in good faith efforts in order to both identify and correct lead paint hazards.

In the area of training and certification for contractors and workers, the EPA is required to provide accredited worker training programs by June of 1994 and also approve state certification programs which will establish national standards. The law provides \$3 million from HUD for the 1993 and 1994 fiscal years to create these individual state programs. Additionally, the National Institute for Occupational Safety and Health will receive \$10 million annually to create grants for workers involved in lead-based paint activities to receive training. The Occupational Safety and Health Association is required to issue a regulation to keep occupational exposure of workers in the construction industry to a minimum.

The EPA will publish a study by June of 1995 on the types of renovation and remodeling activities which create lead-based paint hazards. By January of 1997, it is required that the EPA expand requirements for worker training and certification to include renovation and remodeling activities which create lead-based paint hazards. All of this helps to assure a demand for qualified contractors and trained workers as well as help to enforce minimum national standards. Further, a clearinghouse and hotline will be instated through which information on hazards of home renovation can be distributed.

A task force on Lead-Based Paint Hazard Reduction & Financing will be established to make recommendations to HUD and EPA on the following: risk assessment and inspection upon mortgage origination, standards of care for landlords, the availability of liability insurance, underwriting standards and appraisal guidelines, revision of guidelines, regulations, pamphlets, inspection, and notification in rental housing.

Finally, in the area of research, Title X authorizes \$5 million yearly for HUD research. This includes lead-based paint hazard assessment and reduction techniques, cost effectiveness of interim control and abatement strategies as well as clean-up standards. The CDC is directed to study sources of lead exposure in children who have elevated blood levels (Title X, 1992).

There has been little progress in the eradication of lead paint poisoning because not enough focus has been placed on prevention, but primarily because inadequate funds were provided. Title X will provide funds to develop public education and outreach on lead poisoning in addition to the construction industry programs. This is an important step toward making the federal government a partner with cities and states in creating safe housing for all citizens.

## **FUTURE POSSIBILITIES**

While the need for a bill like this one is evident, it is remarkable that the previous anti-regulation administration signed HR.5334. Certain industries have long fought implications that they were responsible for the elimination of hazards relating to lead. The EPA has filed a lawsuit against several water faucet manufacturers who insist they cannot produce lead free products. However, one company has marketed a lead free faucet for the past ten years in this country (Whiting, 1993).

While it is inevitable that many rental property owners will be unhappy with some requirements in Title X, it is important to note that this bill was written in conjunction with the National Board of Realtors, suggesting that property owners will comply with these new laws.

Although Title X is very comprehensive in its attempt at protecting the population from some lead hazards, there are still areas left untouched by this bill which need to be addressed. One such area is the hazard of lead in both water and soil. While clean-up of lead-based paint is certainly the priority, it is estimated that 20 - 40 percent of total exposure in children is due to water and soil contamination (Whiting, 1993).

The EPA lawsuit is an important beginning toward eliminating one source of this toxin, but federal intervention against industrial emissions would be a strong message to our society that we will not tolerate intentional poisoning of our citizens.

## **SUMMARY**

The dangers of lead were recognized many years ago, but efforts to eliminate this toxin have until recently been almost nonexistent. The developmental and behavioral damage created by lead's devastating capabilities appears to be strong evidence for major legislative action, but prior to 1978 the issue was virtually ignored by lawmakers. Title X will attempt to remedy this situation by mandating eradication of lead-based paint hazards by workers trained in correct procedures, and by providing clear information regarding these hazards to residents. This piece of legislation requires action from several major federal agencies, in the form of enforcement, strategies and guidelines.

Title X recognizes that lead hazards are not strictly contained within the domain of industrial parks, gasoline stations and impoverished homes. Society as a whole is at risk of endangerment from lead, which has remained hidden within walls, water, soil and children for far too long. Finally the present government is attempting to eradicate this menace using the neces-

sary resources. Only when the task is completed will the nation be free of the contamination and effects of this very dangerous toxin. ♦♦

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Jean Fichtenkort returned to college after a decade of employment as an artisan in various West Coast regional theatres. She is a senior studying health sciences with a minor in Urban Studies, and hopes to graduate sometime this century.

# Chemical Exposure in Richmond

Written by Bonita Davenport

Edited by Julie Taylor

The use of toxic chemicals by industry is an invisible environmental danger, particularly to inner-city minority neighborhoods. Richmond, Ca. is home to a large number of chemical companies that frequently emit pollutants into the water, air, and ground. Richmond is also the home to a large community of people of color, and it is for these residents that environmental policies focused on improving the quality of life must be implemented.

## INTRODUCTION

The Environmental Protection Agency (EPA) defines toxic wastes as "toxic, ignitable, corrosive or dangerously reactive materials" (Commission for Racial Justice, 1987:3). Under this definition many household items such as detergents, dry cleaning solvents and even batteries are considered toxic pollutants. However, exposure to toxic chemicals emanating from hazardous waste treatment, storage, and disposal facilities is of more concern than everyday selections of cleansers under the kitchen sink. These facilities use chemicals known to be carcinogenic such as acrylonitriles, (toxic if inhaled), methylene chloride and trichlorethane. Other chemicals include glycol ethers and solvents, used in the manufacture of paint, which have been linked to infertility and birth defects. The use of such chemicals by industries is an invisible environmental danger to inner-city minority neighborhoods - often the primary locations for hazardous chemical activities. Concentrated, long-term exposure to toxic chemicals is a severe health hazard.

Many inner-city neighborhoods face the problems associated with vacant lots, lack of recreational open space, and an abundance of industrial sites. These factors result in a negative effect on the quality of life for residents in the area. A study by the Commission for Racial Justice reveals toxic waste sites in 50 metropolitan areas in the U.S. Coincidentally, these areas also contain a high percentage of African-Americans in relation to the location of sites. The two California metropolitan areas identified are Oakland and Los Angeles (Commission for Racial Justice, 1987:55). This study concluded that race is the most significant variable explaining the location of commercial hazardous waste, even more

than socio-economic status. Additionally, it shows that almost 60% of all blacks and Hispanics live in communities with toxic waste sites as do 50% of all Asian Americans (Moore, T. November, 1992).

The unbalanced location of hazardous waste sites in minority communities is environmental racism - the intentional placement of sites in minority neighborhoods. Disproportionate exposure to chemicals and their by-products is a concern to residents and community advocates who oppose the use of their neighborhoods as toxic dumping grounds. Evidence of such conditions can be seen in Richmond which has an abundance of toxic sites in a community of people of color.

## RICHMOND, CALIFORNIA

The city of Richmond is located 20 miles north-east of San Francisco in Contra Costa County. Richmond has a strong industrial climate headed by companies such as Chevron Chemical Company, Chevron USA, Witco Chemical Company, and Airco Industrial Gases. Although large contributors to the tax base, they are responsible for the negative by-product of a high level of pollution. In 1988, the county ranked second out of the nine Bay Area counties for the highest release of chemical poundage into the air, water, and soil (Lion, 1990).

According to the 1990 census, 87,425 people reside in Richmond with a racial mix of approximately 44% black, 36% white, 12% Asian or Pacific Islander and 14% Hispanic. Minority communities are primarily concentrated in unincorporated North Rich-

***...race is the most significant variable in explaining the location of commercial hazardous waste, even more than socio-economic status.***



mond, west central Richmond, and parts of south Richmond. Most of west Richmond, which extends west to Point San Pablo and the Bay, is filled with industrial, oil-related activities. Residential communities are concentrated in two areas: at Point Richmond and unincorporated North Richmond. The poorest neighborhood is west central Richmond, a flatland community with an average household income of \$23,000. Housing values are rated amongst the lowest in the San Francisco Bay Area with the average price of a home in the \$80,000 range (Profiles, 1991:69).

Within Richmond there are three areas which are directly exposed to most of the commercial hazardous waste: Pt. Richmond, west Richmond (includes unincorporated North Richmond), and west central Richmond. Pt. Richmond is the oldest community, dating from the turn of the century and residents are primarily white at 87% (Profiles, 1991:70). The area is hilly, with many homes facing San Francisco Bay. It is the only white majority community located near hazardous chemical activities: Chevron USA is closeby. In comparison, North Richmond, located north of Pt. Richmond, is an unincorporated flatland where residents are 66% black and 20% Hispanic. Finally, blacks and Hispanics in the flatlands of west central Richmond, a larger area of several census tracts, account for 89% of the residents. The broader picture of toxic exposure in Richmond indicates that only one of four white majority neighborhoods are located near hazardous waste activity, while four of the six minority neighborhoods are situated near such activities.

## EXPOSURE

Data compiled by the Contra Costa County Hazardous Waste Division lists all the approved companies involved in hazardous waste generation in the county; there are 496 such companies in Richmond. Of these, 25 industrial waste sites in west central and Pt. Richmond have contaminated the soil, ground water, and possibly the Bay. Between 39 and 94 million pounds of extremely hazardous chemicals are stored in low income minority neighborhoods. In addition, ground level ozone (smog) irritates the lungs and respiratory systems of residents near Chevron's ORTHO Pesticides, located in North Richmond (Belliveau, 1989).

Of the eighteen Superfund sites eligible for federal clean-up funds in West Contra Costa, ten are located in Richmond (Contra Costa County). More than 30 years ago, DTA, a highly toxic pesticide, was found at a former DDT processing facility in Richmond. The process of cleaning the site is not scheduled to take place until mid-1993, even though the Superfund site has been found to be harmful to residents (Morris,

March 14, 1992). Residents are also exposed to pollution from the Naval Fuel Depot and the Naval Supply Center located in and around west and North Richmond (Lion, 1990). These military facilities use a variety of toxic chemicals that have been found in the soil around the sites.

***"Between 39 and 94 million pounds of extremely hazardous chemicals are stored in low income minority neighborhoods."***

Richmond neighborhood councils and local environmental advocates, such as the West County Toxic Coalition (WCTC), actively express their concerns to both local officials and well established, high-profile environmentalist groups such as the Sierra Club. The coalition was instrumental in forcing Chevron to repair leaking equipment valves and negotiated a "good neighbor" agreement with the company to clean up their polluting business activities (Spero, August 14, 1991). While many residents have accepted that Chevron, one of the largest companies in Richmond, is something they must live with, there is regret over having other companies choose their neighborhoods for additional hazardous waste management. Increasingly, minorities are becoming a part of the ecological debate and demanding representation in the environmental arena (Moore, T. November, 1992). The idea that those in poverty are more concerned with daily survival than toxic exposure is not applicable here.

## A POSITIVE CORRELATION

Using demographic data (United States Census, 1980) for Richmond, I took population figures from each census tract and added the variable of toxic sites to the respective sites. I coded the variables and applied regression analysis to the data. From the results, I was able to determine that there is a positive correlation between the location of minority populations and the location of toxic sites. The higher the concentration of minority residents, the more likely the occupancy by a chemical polluter. The inverse relationship is true for the white population in Richmond; as the white population increases, the possibility of chemical exposure declines. It should be noted that my study data did not control for historical factors in the location of Superfund sites. Therefore, it cannot conclusively prove intentional exposure. However, this information seems to support studies such as the Commission for Racial Justice which find a strong relationship between minority populations and exposure to toxics.

## HEALTH CONDITIONS

The Chevron Refinery located in North and Pt. Richmond is one of many companies which produces and emits toxics. Chemicals such as methanol, which causes liver damage, blindness and respiratory failure from high exposure, are used daily by this company that is also a top emitter for cancer causing chemicals such as Methylene Chloride.

The EPA uses a method of risk assessment to measure how dangerous a substance is to humans by testing chemicals on animals. Skeptics say this method is overly sensitive and places restrictions on many chemicals, both natural and unnatural, that do not cause cancer or other damaging illnesses. Proving that chemicals cause cancer is not an easy task, as the disease may not strike until years after exposure.

Since 1983, research scientists, in a joint effort by the March of Dimes and the State Department of Health Services, have explored the possibility of a link between environmental hazards and birth defects. In tracking the number of birth defects across the state, the researchers found that Contra Costa County has a high number of neural tube defects such as anencephaly (undeveloped brain) in newborns - indicative of chemical exposure to the mother during pregnancy. Additionally, the county ranked third of the nine Bay Area counties for the highest poundage released of chemicals known to cause birth defects (Lion, 1990).

Complaints from Richmond residents of eye irritation, nausea, diarrhea, vomiting, headache and skin rashes have been reported following chemical accidents. On December 5, 1991 such an accident occurred, prompting almost 6,000 people to register complaints with the West County Toxics Coalition (Morris, March 12, 1992). A study by the U.C. Berkeley School of Public Health in 1991, found a high incidence of lung cancer in the neighborhoods surrounding a Supersite location. A current long-term study by U.C. Berkeley is investigating reasons that may explain the higher rates of heart disease among African-Americans in Richmond. And finally, a study requested by the West County Toxics Coalition found no detectable differences in cancer rates in North Richmond than the nearby community of Parchester Village, located just north of North Richmond. One analysis of the study indicated that the higher rates could be from cigarette smoking, not refinery pollution (Brunner, 1988). The comparison seems redundant because of the proximity of the two neighborhoods. The county warned that the study left too many questions unanswered and did not eliminate air pollution as a health concern. Therefore, even if the study does not verify higher cancer rates in North

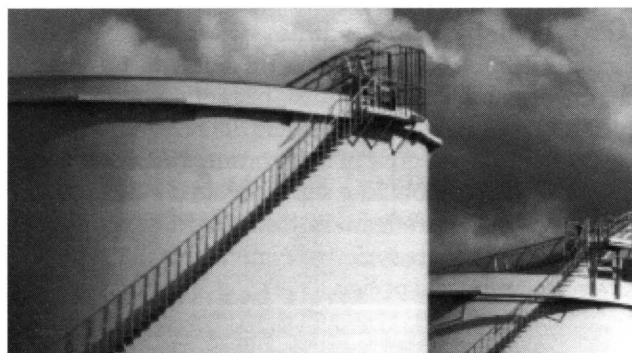
Richmond, air quality and other polluting factors must still be examined (Brunner, 1988).

What contributes to the poor health levels in inner-city Richmond? Hazardous chemicals contribute to the breakdown of the immune system, which helps fight-off harmful bacteria in the body. When coupled with exposure to chemicals for long periods there is a greater likelihood of poor health than for those not adversely exposed. At the 1992 SuperCities Conference at San Francisco State University, experts from Japan reported that hazardous chemicals have harsher effects on those whose immune systems are weakened (partially caused by malnutrition). Low income people are more likely to suffer from illness because their dietary intake is usually less nutritious. Existing health problems are exacerbated by poor environmental quality in urban areas.

## WHY RICHMOND?

Demographic figures illustrate the changes in population size and make-up of the Bay Area. In 1950 Richmond's population was 85% white, 13% black; by 1960 it was 71% white and 20% black. By 1970 the non-white population in Richmond was at 51%, almost equal to the white population of 49%. Nearby cities like El Sobrante, Pinole, and Hercules attracted middle income families, and by the early 1970s urban flight into these cities was well underway (Moore, 1993:29,35). During the late 1970s, Richmond's communities began to show evidence of deterioration as blacks and whites located farther apart.

Communities such as west central and North Richmond must continue to participate in the political process to remind officials that these areas need regulations to cope with the environmental problems produced by big business. Too often residents of communities who are less educated are economically vulnerable and suffer from political disempowerment. Environmental injustices occur when government and business leaders fail to serve the silent, lower income minority communities. Organizations such as the West County Toxic Coalition (WCTC) and Citizens for a Better Envi-



ronment (CBE) attempt to build community support to combat influential political powers. For example, in March 1992, the WCTC was instrumental in getting a conditional use permit rescinded until further investigation of the project could be done by the EPA. Additionally, the coalition successfully negotiated the installment of an alert system at the Chevron Refinery with the capacity to make 50 calls per minute should an accident of a dangerous magnitude occur. Taking a large policy leap, the California Clean Air Resources Board now requires all California oil refineries to produce cleaner burning fuel by April 1, 1996 or suffer a \$10,000 a day fine (Reed, March 18, 1992).

New laws and regulations enforced by the Environmental Protection Agency have resulted in many new business practices. Though practices such as recycling hazardous waste may be good for the environment, they have created negative impacts on Richmond's poorer communities. Residents are subjected to businesses engaged in handling hazardous waste for the benefit of large industrial oil companies. In an attempt to "do the right thing," these recycling centers often target low income minority neighborhoods in their search for cheap, plentiful, flat land. These neighborhoods are not known for having a strong voice in opposing such activities. The regulatory process must remain under strict policy evaluation to measure its effectiveness for all segments of society, so that disempowered minority communities are not adversely effected by new environmental protection laws. Additionally, the larger issue of concentrated toxic exposure must be considered in relation to the negative effects of chemical pollution regulations. Such effects include employment reductions and further service depletion caused by removing the apparent problems from these communities.

## POLICY CONSIDERATION

Profits and dividends are the concerns of shareholders of giant public corporations; environmentalism is not. Chief Executive Officer and Chairman of Chevron Corp., Kenneth Derr, sat on the White House Commission for Environmental Quality in the Bush Administration. He contends that environmental protection regulations need to "be in harmony" with basic economic needs (Calandra, March 13, 1992). It is this kind of thinking that concerns many community organizations in the City of Richmond. Business leaders, like Derr, insist on pushing the real purpose of environmental protection aside for what they consider a greater need—economic profits. As corporate leaders gain board seats, their political power becomes very effective in building and implementing public policy.

Most business leaders are able to participate at some capacity in policy initiation, formation, and implementation. Business leaders, city governments, and communities must view the issue of environmental regulation as an ethical issue, not economic suicide. People should not be asked to choose between employment and health. City governments must not let economic issues take the highest priority, with social issues finishing a poor second. Economic concerns are not solved by conforming to a company profit margin, especially where serious health consequences are involved. Ideally, local agencies, business leaders, and communities should all play a role in creating new, cleaner ways to stay in business. The policy of pollution control, rather than pollution prevention, allows for continued exposure by companies who can afford to pay fines rather than spend money conforming to regulations. The average fine in California for violators of hazardous waste over a three year period was only \$601 (Kay, March 8, 1992). Local agencies must take steps to prevent hazardous waste pollution by proposing penalties that discourage violators.

While the city of Richmond forges on with revisions to its 27 year-old Master Plan, officials must be sure to include an Environmental Policy Element in order to reduce the impact of chemical and hazardous waste facilities on the city's environment and residents. By defining environmental problems, officials in the city's agencies can produce solution based policies. Richmond has already strengthened the power of each neighborhood council. It is mandatory for new or improved land use proposals to be brought before community councils prior to requesting city approval. Policies such as this slowly make the disproportional placement of hazardous activities within minority neighborhoods more difficult.

Regulatory actions could further discourage disproportional toxic exposure. Congress passed the Community Right to Know Act in 1992, ordering those who generate or release toxic waste to report these activities to state and federal officials. To further this, an agency should be assigned to analyze the information so that it will represent a clearer picture of the amount of chemicals released each year. This would help policy makers identify gaps in regulations. The following proposals would help to reduce disproportional exposure:

- Discourage unusual concentrations of hazardous waste activities within any given community through extensive legislation;
- Require analysis of short and long term health hazards from chemicals as part of the Environmental Impact Report;
- Re-examine the standards used for issuing hazardous waste permits for land use changes,



regulatory amendments or variations in business uses by companies;

- Determine violation limits and accelerated multiplier fines for continued use to further discourage chemical accidents;
- Monitor city policies as they relate to private sector business;
- Redefine environmental issues to include everyday health and safety concerns;
- Encourage industries to produce cleaner production technology;
- Redefine the role and responsibilities of the County Hazardous Materials Division, so that more concentration can be given to shaping the face of environmental placement rather than just monitoring its uses.

## CONCLUSION

The health of a community is partly determined by the physical health of the residents. While issues such as housing, jobs, and education are important to Richmond residents, ultimately health concerns must be addressed above all others. Further study is needed on the health effects of concentrated environmental pollution in Richmond.

Waste management companies thrive as the EPA continues to tighten regulatory laws on chemical producing businesses. In order to protect citizens of communities where these businesses are located, city officials must keep in mind that private sector companies will not consider the "public good," and the quality of the environment, before their own. Pollution is not a problem to be borne by the few; therefore, government intervention is necessary to free all communities of the risks associated with hazardous materials. ♦

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**Bonita Davenport is graduating Spring 1993 with a B.A., Urban Studies. She has a strong interest in social policy and may attend graduate school. As a resident of Richmond, she was confronted with the difficulties of obtaining information about hazardous waste activities in her community. This sparked a greater interest in the issue of environmental racism.**

# Leaking Underground Storage Tanks in the Bay Area

Written by Daniel O'Connor

Edited by Julie Taylor

Environmental, social, and economic problems are emerging nationwide, particularly in the Bay Area, from leaking underground storage tanks. These underground sites, the author argues, are not single issue problems, but rather, are components of larger forces; solutions must address all the components. A future vision of a toxin-free Bay Area requires an ecologically based regional charter focused on regional planning, site clean-up, and inner-city neighborhood development.

## INTRODUCTION

Imagine a group of city children playing in a vacant lot in East Oakland, Central Richmond, or the eastern half of San Francisco. It could be an abandoned gas station site, a vacant business that stored fuel in underground tanks, or adjacent grounds. To the children, predominantly poor and non-white, the lot is a park, a seemingly safe haven from the busy city streets. A closer look, however, reveals that their little play world may be a leaking underground storage tank site (LUST). These sites are emerging skeletons in the closet of our auto-based, petroleum dependent culture. The discharge of toxic metals and petrochemical by-products into the air, water, and soil has left poor, usually minority neighborhoods the major hazardous waste centers of the Bay Area.\*

***The discharge of toxic metals and petrochemical by-products into the air, water, and soil has left poor, usually non-white neighborhoods the major hazardous waste centers of the Bay Area.***

Leaking underground storage tank sites contain soil that is saturated with gasoline and used motor oil. Although gasoline is now unleaded, it continues to contain benzene, toluene, and xylene. These are hydrocarbons and neuro-toxins, which adversely affect the human nervous system. Xylene and toluene, for example, are proven teratogens, substances that cause

genetic birth defects (Bleifuss, 1/25/93). In older tank sites, the soil may be contaminated by lead. Lead poisoning can cause brain damage in young children. A recent San Francisco County survey found that one out of twelve city children are afflicted with some level of lead poisoning (Kay, 4/22/92). This toxic substance impairs the neurological system retarding IQ development creating learning and behavior problems. Elevated levels cause anemia, brain damage and physical stunting (Kay, 4/22/92).

## COSTLY CLEAN-UP PRICE TAG

California's nine Regional Water Quality Control Boards (RWQCB's) report that there are approximately 20,000 leaking underground storage tanks statewide. There are 5,045 reported cases in the Bay Area alone. The agency is under pressure to manage this volume of cases with limited resources. Presently there are only five staff members working on all Bay Area LUST cases, illustrating the imbalance between sites and employees. However, a new Underground Storage Tank Cleanup Fund paid for by a new federal petroleum storage fee, could prove effective. At present, California receives only \$4 million from the fund annually. Most monitoring of underground sites occurs at the local county level of health and fire departments, but because of limited budgets their monitoring capabilities are constrained (Dalke). Due in large part to the post-1980's budget crisis, subsequent spending cuts, and the lingering California recession, the lack of supporting funds makes it difficult to identify hazardous sites and assure appropriate remedies. As a result, poisoned neighborhood land often remains empty at a time when community development is desperately needed.

\* This paper, for reasons of time and space, excludes the South Bay, which has large numbers of LUST sites.

Subchapter IX of the Federal Resource Conservation and Recovery Act (RCRA), governs the regulation of underground storage tanks, site inspection, repair, and clean up. The California State Board's Local Oversight Program furnishes federal and state funds to local agencies for site cleanup but at present, the state has insufficient funds to do so. For most community based groups, the clean-up price tag is too complex and costly, thus creating a stalemate. Community development groups often view abandoned lots as potential locations for low-income housing, child care or business centers. The discovery of a site's status as a health hazard renders it useless because of the financial commitment involved to clean it up.

Industrial and commercial fuel tanks are large and buried deep in the ground. Site cleanup is expensive especially for small business persons who routinely buy gas stations and auto repair shops from larger petroleum companies. Average tank removal, with the absence of any toxic leaks, costs around \$10,000 but this average figure can vary widely (Dalke). If soil contamination is present, the clean-up costs can quadruple (Calandra, 9/1/92). One independent car garage owner, complying with RCRA, recently spent \$200,000 just to remove six tanks. Fortunately for the owner, the tanks were not leaking and the soil was not contaminated. The San Francisco Health Department estimates that three-quarters of all underground leaking storage tanks [in the city] leak contaminants into surrounding soils (Calandra, 9/1/92).

Enforcing site cleanup regulations on large companies, who wield considerable legal and financial power, often costs over \$30,000 in state tax payers' money. When the outcome is a small fine of \$1000 or less, it is not economically logical for the state to pursue large corporate polluters.

A closed site is one with no further investigation or clean up presently required (Feldman). Of the over 5000 reported cases in the Bay Area, only 247 (or 5%) have been closed (State Water Resources Control Board, 1992). Statewide, only 17% of the cases have been closed, while the total number of cases is increasing overall by about 16% a year.

## UNEQUAL DISTRIBUTION

Case files at the Regional Water Board in Oakland reveal that LUST sites in suburban areas receive more attention than sites in inner city areas. This relative neglect of urban sites is affirmed by the large numbers of suburban case files with long, environmental impact reports (EIR's). These reports are usually prepared by the petroleum industry's own environmental consult-

ants. In sharp contrast to their suburban counterparts, a review of Richmond, East and West Oakland, West Berkeley, and eastern San Francisco case files reveals brief EIR's.

The case files indicate that low income communities of color in the flats of the East Bay and the eastern sections of San Francisco, disproportionately contain more LUST sites than in the more affluent, white communities within these cities. For example, of Oakland's approximately 382 reported sites, 91% are located in the Oakland flats, which include East, West, and Central Oakland. The flats' population is 80% non-white and is one of the poorest areas in the Bay Area. East Oakland alone contains some 130 reported sites (34%) of the city's total. East Oakland's population is over 90% non-white and has a median household income of only \$24,550 (*Up Close SF Bay Area*, 1991). In contrast, the Oakland Hills area, a large section that includes the foothill neighborhoods of Dimond and Lakeshore, contains only 8% of the city's sites. These areas are home to most of Oakland's white population, with a median household income of over \$60,000. Similar patterns are evident in Berkeley and Richmond where most sites are located in the flatland area. This area is older and poorer in comparison to the foothill neighborhoods and is inhabited by people of color.

San Francisco LUST sites are also unequally distributed. The Downtown, South of Market, Bayview-Hunters Point, Mission, Potrero and Western Addition districts make up approximately half of the city's population yet contain 75% of the city's hazardous sites. Not surprisingly, the majority of the residents in these areas are poor people of color. The South of Market district, an area composed of residential and commercial buildings, contained 70 sites in 1991, the largest concentration in the city. The median household income in this area is \$19,280, the lowest in the city. Sixty-one percent of the residents are non-white. The city-wide median household income is \$45,664 (U.S. Census, 1990). Bayview-Hunter's Point, next to a Superfund site, contains 53 sites, the second largest concentration in the city. This area's median income is \$32,600; 91% of the residents are people of color.

In sharp contrast, wealthier and predominately white neighborhoods, such as Sea Cliff, Pacific Heights, and Ingleside Terrace, contain only two sites. The median household income in these areas is \$78,342. Like their East Bay Hills counterparts, they were built above or beyond the city's major commercial and industrial zones.





## OMINOUS URBAN IMPLICATIONS

The Bay Area Regional Water Board acknowledges that many more LUST sites remain undiscovered. However, those that are identified are not necessarily given equal treatment which creates additional problems. Suburban sites apparently receive more attention than inner city ones through larger environmental impact reports. Because inner city sites are older, have more lead-saturated soil, are located in more densely populated areas, and are generally more neglected, there is an increased risk of an urban environmental disaster. Many inner city areas, are built on sand, fill, and water-logged soils. Consequently, the water table and surrounding soils in these areas are easily saturated with toxic contaminants. Many of the site discharges enter major water systems because they are located near San Francisco Bay. Consequently, ground water, underground creeks, the bay and its estuaries, and the oceans are being polluted. Runoff and discharges increasingly damage plant and animal habitats as well as human health. Supporting evidence confirms that petroleum run-off poisons the Bay (Olszewski, 9/20/91). Finally, chemical and petroleum underground tank leaks in the South Bay are adding to the regional problem. According to a recent report, a severely toxic underground plume, one and one-half miles long and one-half mile wide, may be moving into the wetlands on the edge of the San Francisco Bay (Graham, 5/31/92).

Some may refute the leaking tank crisis, as well as other human induced ecological problems, as liberal to left-wing scare tactics and environmental extremism. Various interest groups such as factions in the petrochemical industries, fiscal conservatives in government, and "wise use" movements believe society should not spend any money on LUST clean-up. After all, the nationwide site clean up price tag could reach hundreds of billions of dollars (Petit, 9/6/91). Proponents of leaving the sites undisturbed base their stance on the assumption

that in time any contaminants from a leaking tank will break down into harmless organic matter, thereby saving money that could be spent on productive capital investment. They argue that petroleum leaks are less of a menace than chemical solvent leaks, and that an organic breakdown process is possible on the peripheral soils of petroleum based leaks. Most sites have heavily concentrated petroleum saturation, which will not break down organically and are potential public health threats (Dalke).

Hence, the laissez-faire argument may have some debatable points, namely, that society may not presently be able to afford toxic clean ups. This perspective counters growing environmental and social concerns as the public tires of the rigid and reactionary *jobs versus environment* and *economic growth versus overall public health* arguments. The fact remains that poisons are constantly leaking into the ground and waters. I would argue that those who give the battle cry, "leave the LUST alone in the name of economic growth" do so for the wrong reasons of economic greed and social blindness. How can one not see that with a poisoned ecology there is little prospect for a strong long-term economy?

## A COMPONENT OF LARGER FORCES

It is important to recognize that LUST sites are the by-products of oil based production and consumption: the foundation of twentieth century development. The interconnections of oil to economic, political, and social forces are binding and any solutions must take them all into account. A piecemeal approach must not be attempted. Solid solutions involve moving away from dependence on oil and the exploration of alternative energy sources. Without large scale economic development and toxic clean-up plans, the runoff and discharge from storage tanks will only add to the vicious cycle of degradation and pollution.

In the Bay Area, increasing numbers of people are

***"Underground storage tank sites are interconnected with the automobile-based infrastructure of the region."***

realizing that toxic pollutants negatively affect the environment. Underground storage tank sites are interconnected with the automobile based infrastructure of the region. Gridlock, smog, toxic run-off, and urban sprawl are factors that greatly exacerbate the decline of the quality of life for the area's residents.

Pollution increases the potential for environmental regulation and business flight. Pollution control methods are costly to install therefore reducing profit margins or increasing the cost of manufacturing. Many companies relocate to states or countries with lax environmental standards to overcome U.S. government regulation. Middle class flight to exclusive suburbs occurs because of deteriorating inner city conditions such as increases in violence and homeless people. Banks won't finance a property until the tanks (and toxic spills) are gone (Calandra, 9/1/92). So, as environmental decay increases there are greater pushes for red tape environmental regulation on the one hand, and on the other hand, more stringent financial lending practices. All of this could perpetuate and worsen inner city neglect, leading to a catch-22 scenario in the future.

## FUTURE VISIONS

In response to the environmental and social crisis created by leaking tanks, the Bay Area public and private sectors must collaborate and agree upon some common ecological, economic, and social urban visions—a utopian pursuit may be impossible but compromise is not.

An *ecological* vision has less toxic wastes and pollution, in an effort to create a sustained and balance between human activity and natural conditions. An *economic* vision creates cleaner methods of industrial and hi-tech production that do not exploit the world's natural resources. A *social* vision incorporates justice and equality into the decision-making process. New and innovative political, social, and economic mechanisms must reverse the trend of a society of haves and have nots, dysfunctional and decaying inner cities, and exclusive suburbs.

These visions will only be brought about by an explosion of vibrant, ecologically based populist driven politics that rival the civil rights movement in magnitude. In his new book, San Francisco State University Professor Richard E. DeLeon aptly names a similar politics, a "Red-Green fusion" as a progressive Bay Area regional regime (DeLeon, 1992). This progressive movement must emerge particularly from the areas where LUST and other toxic sites are concentrated. Residents of such areas must organize themselves and find common ecological, social, and economic goals in order to quell the surging tide of toxins in their neighborhoods. The Bay Area desperately needs visionary regional planning that benefits the majority of the population. The work of environmental regulatory bureaucracies must be funded and merged with local planning agencies in order to implement effective regional strategies. A regional planning body formed with legitimate, not symbolic, representation from ev-

ery Bay Area city and town would include ethnic and racial groups of all class levels.

Out of this new cooperative venture, a Bay Area environmental and economic charter can be established. Regional public and private sector cooperation would result in inner city toxic site clean-up and development projects to benefit the area's residents. At the local level these projects would create: affordable housing, business opportunities, drug rehabilitation projects, health care facilities, and community agriculture programs. Regional development would include: a large mass transit project to eventually link the entire state, and possibly all of North America; health and computer technologies; military conversion projects; ecological and environment restoration; new energy systems and energy efficiency projects; and finally, environmentally sustainable manufacturing systems.

## CONCLUSION

The adoption of powerful ecological politics focusing on *people* as well as animals and wetlands will influence the private and public sectors. Corporate giants and governmental agencies need to clean up the current toxic mess, and begin to develop cleaner methods of industrial and hi-tech production. Without changes, neglect of environmental hazards will only continue to perpetuate economic and social decline, particularly in communities of color. If the accumulation of petro-poisons continues, future urban rioters will only need to set fire to the ground to see more cities go up in flames. ♦♦

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# Curing the Bottom Line: Health Costs and Reform in the U.S.

Written by David Fisher

Edited by Richard A. Vitale

In June 1993, the Clinton Administration is scheduled to propose legislation to institute sweeping reforms in the way health care is financed in the United States. Much has been said about the 37 million Americans who currently lack medical insurance, but soaring costs, not humanitarianism per se, is driving the push to reform. This article gives an overview of the cost containment debate and a context in which to examine Clinton's "managed competition."

## INTRODUCTION

The federal government rarely intervenes to make fundamental changes in American society, and then only after being forced into action by an unusually broad base of public support. Such a rare occurrence is currently taking place in the realm of national health care policy, with a near unanimity for change being expressed among corporate CEOs, unions, consumer advocates, indemnity insurance companies, and even physician and hospital associations.

***Thirty-seven million Americans, roughly 17% of the population, have inadequate or no health insurance.***

Two central issues have emerged on top of the national health agenda, accessibility and costs. Thirty-seven million Americans, roughly 17% of the population, have inadequate or no health insurance (Graves, 1992:24-31). The on-going transition of the national economy from manufacturing to the service industry job-base has created a raft of low-paying jobs for which employers are extremely reluctant to provide costly medical benefits. Small businesses have found it especially difficult to keep up with the rising costs of offering health insurance to their employees, and a significant minority of all firms simply do not; in California, this accounts for 38% of companies with fewer than 50 employees (Duerksen, 1992).

**Health Care  
Our Families  
Can Afford**

Medicaid, the government program designed to provide access to health care for the poor, has been a particularly attractive target for recessionary cutbacks, and currently serves less than 40% of Americans earning under the federal poverty line (Aetna, 1993). The large number

of uninsured is likely to increase dramatically if nothing is done (CBO, 4/91). The lack of access to health care has mobilized liberals, many of whom hope to see fundamental, radical reforms by the federal government promoting a more equitable health care system. However, the rising costs of health care is the primary impetus for the current press for reform. Cost containment will certainly play a central part in any reform legislation we see this year.

## HEALTH COSTS - A GROWING PROBLEM

A brief review of the behavior of health costs should suffice to explain the considerable level of alarm. Since 1970, increasing costs have annually outpaced U.S. gross domestic product (GDP) growth by 2.9%, rising from 7.4% of GDP in 1970 to 12.4% in 1990 (Jencks and Schieber, 1991). We currently outspend every other country in the world for our health care, both in absolute and relative terms. In 1987, the U.S. spent 11.2% of its GDP, more than \$500 billion annually, on health, compared to 8.8% of the GDP in Canada, 8.1% in West Germany and 6.8% in Japan (CBO, 4/91, 12/91; Graves, 1992: 24-31).

Health costs have contributed considerably to the federal deficit as well as causing budget woes for many states, thanks to hefty Medicaid and Medicare bills for services to the poor and elderly. Approximately 13% of the 1990 federal budget was spent on health care costs, and this amount is estimated to reach nearly 20% by 1996, despite continuing cutbacks in Medicare coverage and the severe restrictions in eligibility for Medicaid that are occurring in many states (CBO, 4/91; CBO 7/91).

## FRAGMENTATION AND INSULATION

A variety of circumstances combine to make the problem of health costs particularly intractable. Fragmentation of health care financing occurs when instead of paying providers directly for medical services, consumers use the intermediary of public or private insurance. Many economists argue that this three-tiered structure has insulated both providers and consumers from "normal" market pressures, and is one of the primary reasons for rising costs (Rice, 1992: 19-65). Most insured Americans have a portion or all of their payments paid through their employers as part of a pre-tax benefit. This makes consumers less sensitive to the cost-benefit analysis of their own health decisions. Out-of-pocket expenses for consumers as a proportion of medical costs have declined from 46% in 1965 to 21% in 1989 (CBO, 4/91). Even beyond the issue of personal cost isolation, the nature of this product is so closely linked to personal well-being that it is possible that there is a higher than customary incentive to seek the very best care every time, regardless of cost.

***Health costs have contributed considerably to the federal deficit as well as causing budget woes for many states...***

On the providers' side, many health economists argue that the traditional fee-for-service insurance, which uses per unit of service payment structures (for both public and private insurers), gives physicians and hospitals the incentive to provide greater levels of care than are necessary, rather than rewarding cost-effective treatments. The malpractice environment has pushed physicians to practice "defensive medicine" in order to avoid having to explain in court why the best possible techniques were not used with every patient. Also, professionalism encourages the use of the most sophisticated technological tools available in order to produce

the best environment for cure, sometimes leading to "wasteful competition" among health providers to deliver expensive, technology-intensive services (Garrison, 1991: 13-19). Rising insurance rates account for a large portion for the huge number of the under and uninsured Americans mentioned above. A recent survey of the health care costs of 502 of the country's largest companies found an average annual cost per employee of \$2,855 (Collins, 1992).

## PRIVATE SECTOR COST CONTAINMENT

Insurers have had their role in complicating this system, as well. Since the birth of modern corporate health insurance in the 1940s, commercial insurers have routinely limited eligibility to their plans through the use of experience ratings, which base rates on the expected costs of a small group of individuals rather than using community ratings which base rates on the expected costs per person residing in specific geographic areas. This effectively allows insurers to minimize their risk by "skimming the cream" of the healthiest possible participants while at the same time shutting out those who need care the most (CBO, 4/91). And of course, insurers have passed on to premium-payers the growing costs of settling claims. Between 1977 and 1987 the average price of insurance premiums rose by 49 percent, to \$1,656 in 1987 dollars (CBO, 4/91).

Frustration with traditional financing led to innovations in health care provision structures in the 1970s and 1980s, with the creation of "managed care," by Health Maintenance Organizations (HMOs) and Preferred Provider Organizations (PPOs). HMOs remove the financing intermediary by acting as both a financing agent and provider. They are remunerated on a capitation basis, meaning that they receive a fixed fee rather than charging per unit of service. In theory, this should give HMOs the incentive to keep costs as low as possible, in order to maximize their profits. Membership in HMOs has risen precipitously, from 3.6 million in 1970 to over 35 million in 1990 (Wallack, 1991: 27-33).

PPOs are flexible affiliations of physicians grouped together to offer services to a particular patient group or company. The group offers discounted rates to the company or group, and in turn, enrollees in the group are given financial incentives to use only members of the PPO for their health care. Unlike HMOs, PPOs do not receive capitated fees, but offer more flexibility to eligible enrollees, who may choose to go outside the group for care. PPOs have grown even faster than HMOs, with eligible membership going from 1.3 million in 1984 to 37 million in 1988 (Rice, 1992: 19-65).

In order to keep their internal costs low, HMOs and PPOs have developed managed care or "utilization management" procedures. Utilization management is a mechanism of review and control of the provision of medical services by someone other than the practicing physician. This includes case management of individual patients (for example, through mandatory second opinions for surgical procedures, and concurrent reviews of inpatient intakes and treatments), as well as physician review procedures, and technology reviews (to restrict unnecessary capital expenditures).

Initial studies of HMOs have indeed shown success in reducing costs - up to 20% reductions in hospital admission rates and 40% reduction in hospital stays (Wallack, 1991: 27-33). However, some analysts have attributed much of these savings to the selection of healthy enrollees (healthier people may be more inclined to choose inexpensive, pared-down health plans). Other studies have shown that much of the cost savings HMOs have produced are one-time, and that these groups have been no more successful in controlling inflation of costs over time than their fee-for-service counterparts. There are fewer available studies of PPOs, but initial results

***This effectively allows insurers to minimize their risk by 'skimming the cream' of the healthiest possible participants while at the same time shutting out those who need care the most.***

have been equally disappointing (Rice, 1992: 19-65). Traditional fee-for-service insurers have responded quickly to the popularity of these managed care programs. Nearly all have begun instituting the internal cost containment procedures pioneered by HMOs and PPOs, thus creating the new category of "managed fee-for-service" and effectively bringing managed care well into the mainstream (Bailet and Sennett, 1991: 87-93). Proponents of managed care laud the empowerment of those opening their purse strings to take an active part in decisions on treatment, saying that this introduces the otherwise missing element of cost-effectiveness. Many physicians have balked at the micro-management of their work, as well as the increase in paperwork, already a notorious feature of the health finance picture.

In 1987, during the period of growth of "managed fee-for-service," administrative costs of insurance companies were \$23.9 billion, representing 4.9% of total spending. Insurance industry administrative overhead currently averages about 14% in the U.S., com-

pared to 1% in Canada, where provincial governments act as the sole insurer for all citizens (Clancy, Himmelstein and Woolhandler, 1992). Indemnity insurance representatives retort that for every \$1 they spend on managed care expenses, they save about \$10 in health care costs (Aetna, 1993). Some analysts have worried though, that the "fox is guarding the chicken coop," because insurers, whose profits depend on keeping their own costs low, are gaining more power to intervene in health care delivery decisions (Dans, 1989).

## FEDERAL COST CONTAINMENT

The first major attempt at controlling medical costs in recent years came as part of Nixon's Economic Stabilization Program that placed wage and price freezes on the entire economy, including the health care industry. In December 1972, a cap of 6% was put on health care price increases, and all increases had to be justified. Specific spending caps were also set for wage increases and purchases of new technology. This program was short-lived, (having been implemented by executive order, it required congressional approval in 1974, and was defeated after heavy lobbying from the hospital industry) but was very effective in reducing hospital costs (Davis, Anderson, Rowland and Steinberg, 1990).

The Health Planning and Resource Development Act of 1974 required states receiving monies from the national government to institute Certificate of Need (CON) laws. By 1980 all states except Louisiana had enacted these laws, which were designed to place a check on capital spending of hospitals through boards of community members (CBO, 4/91). Studies of the effectiveness of CON boards found that they had little incentive to regulate hospital costs; many members believed any kind of hospital expansion would be a positive development for their communities, and therefore had little cause to challenge capital development (Rice, 1992: 19-65).

When considering its own health bills, the federal government has had similar troubles keeping costs down. In 1972, federal law required all states to create Professional Standards Review Organizations (PSROs), which were associations of doctors that monitored utilization of services for all the medical services paid for through the Social Security Act. The nation was divided into 195 regions and PSRO reviews were required in order for hospitals in these regions to receive reimbursements for their Medicare patients. The primary purpose of these PSROs were to curb the "inappropriate use of health-care resources," and to ferret out overcharges through concurrent and retroactive reviews and physician evaluations (Fox, Goldbeck and Spies, 1984). A study by the Health Care Financing Administration in



1978 found that the PSROs had been able to reduce days of care by 1.5% through their review procedures. However, these procedures proved to be expensive, costing \$12.80 per review in 1977. The PSROs would have had to produce a 1.7% savings just to break even with their own administrative costs (Davidson, 1980).

PSROs were summarily discontinued in 1983 and replaced with Peer Review Organizations (PROs) which were given a similar mission, but were organized on a competitive basis and in order to survive they had to be effective in cutting costs (Fox, Goldbeck, Spies, 1984).

About the same time however, a much more important step was taken with the adoption of Diagnostic Related Groups (DRGs) initiated under the Tax Equity and Fiscal Responsibility Act of 1982, (and continued under the Medicare Prospective Payer System that was instituted a year later). The DRGs are a codified list of 467 diagnostic-groups classifying patients into categories according to diagnosis, procedures to be performed, age, discharge status, and complications. Assigned to each category is a calculated number of in-patient hospital days that correspond with the necessary care for each illness. Before the establishment of DRGs, physicians and hospitals were able to charge for services delivered to Medicare patients on the basis of their own costs. With the DRGs, the government took unto itself the task of setting prices for most medical procedures, at least for those procedures covered under Medicare (Fox, Goldbeck, Spies, 1984).

While the DRGs indicate a substantial first step in creating standards for reimbursement, they also rely on the vague unit, "days of care." Also, they apply only to in-patient care, whereas the out-patient sector has grown considerably in the last decade, and there is significant concern that this unit of measurement will cause a drop in the quality of service (Rice, 1992: 19-65). Also, indemnity insurers have complained about having to "shift" costs to more generously insured clients because hospitals and physicians are paid an average of 25 percent less by Medicare than the reimbursements they receive on unassigned claims. This has led to the practice of "balance billing" (billing the client the "balance" of the bill not paid by the government), which puts the onus for payment of rising costs back on the poor and elderly (CBO, 12/91).

## RECENT PLANS FOR REFORM

The Bush Administration delayed forming any health care policies until faced with the pressures of the 1992 campaign. Then, President Bush hastily put together a plan calling for a tax credit for individuals and small businesses that buy health insurance, insisting that

"our citizens do not want a government bureaucracy in charge of health care financing and health care choices" (Sullivan, 1992: 801-804).

Some congressional Democrats seemed to agree with this assessment, proposing plans that would leave the present system unchanged, among them, Senator Lloyd Bentson's (D-TX) Better Access to Affordable Health Care Act of 1991 and House Ways and Means Committee Chair Rep. Dan Rostenkowski's (D-IL) Health Insurance Reform and Cost Control Act of 1991 (Noble, 1992: 21-39).

The plan that seemed to have the most support was the Democratic leadership bill called Health America, introduced by Majority Leader George Mitchell (D-ME). This plan known as "pay or play," would have mandated that businesses either insure their employees or pay into a public fund to cover uninsured workers and the unemployed, making the plan at least in theory, self-financing (Rovner, 1992). On the other end of the spectrum, Senators Paul Wellstone (D-MN) and Bob Kerry (D-NE), and Rep. Marty Russo (D-IL) championed bills that would create a federal government controlled single-payer system modeled on the Canadian system, eliminating the private insurance industry and extending equal coverage to all Americans. The bills' authors claimed that the high costs of these programs would have been offset by the substantial decrease in administrative costs of the current system (Rovner, 1992).

## THE REFORM PICTURE TODAY

The results of the 1992 election have changed the environment for reform considerably. Of the plans mentioned above, only the single-payer plan has found its way into a renewed legislative proposal [in the American Health Security Act of 1993, authored by Representatives Jim McDermott (D-WA), Paul Wellstone (D-MN), and John Conyers (D-MI)]. However, it is anticipated that the Clinton Administration will introduce a "managed competition" bill to Congress by June 1993, one that seems to have the best chance for passage this year.

Under managed competition, a National Health Board would be created that would establish national and state budget "targets" for health expenditures, and come up with a "core benefits package" that all insurance companies, HMOs, and PPOs would have to provide as a minimum in their health policies. Insurers, physicians, and health care institutions would be "encouraged" to form local health networks that would negotiate fees with similarly organized groups of consumers ("regional health insurance purchasing cooperatives"). For citizens on Medicare or those too poor to

afford insurance, the government would broker insurance through these networks and pay capitated rates. A single standardized claim form would be instituted for public and private plans, and administrative overhead would be consolidated into the large regional networks (Clinton, 1992: 804; Starr, 1993: 44-52).

Insurers and HMOs would thus be encouraged to continue developing utilization review techniques in order to compete on a price that would be level with other networks vying for large regional purchasing cooperatives. By endorsing managed care, this plan lays its blessing on a phenomenon already sweeping the health care industry, in hopes of attracting conservative support for a "market-based" approach. Meanwhile, it institutes stringent regulations of allowable coverage packages and possibly, tough global budget caps that are reminiscent of Nixon's wage and price controls.

This slightly schizophrenic approach may be just what the plan needs to achieve the wide base of support necessary to pass Congress. However, to be successful, Clinton will have to ensure not only the passage of his plan, but also that the goals and operations stay intact when it shifts into implementation. The federal government is notoriously bad at enforcing spending caps of any kind (witness the Gramm-Rudman-Hollings bill) and there is no assurance that simply convening a National Health Board would put to rest the raging conflicts over what constitutes maximum health costs, and who should bear the burden. ♦♦

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# Decentralizing California's Mental Health System

Written by Heather Pegas

Edited by Maggi M. Morehouse

For 35 years, California's mental health system has been defined by decentralization; a devolution of responsibility for mental health care from the state to the county level. Decentralization by deinstitutionalizing has been blamed for many failures in the system. Power and funding moved away from the state-controlled mental hospital system to community or county-run services. While in the past decentralization did not effectively provide quality service for California's mentally ill, recent legislation guardedly promises a departure from decentralization of the past.

## DECENTRALIZATION PHASE 1

Decentralization of California's mental health system began with the passage of the Short-Doyle, or Community Mental Health Services Act in 1957. It followed a national trend towards community-centered care for the mentally ill. The advent of psychotropic medications was beginning to make it possible for all but the most severe patients to live in their communities (Greenblatt, 1992: 49).

Short-Doyle stated that "the concept of community mental health services is departure from tradition. It relinquishes the idea that the only way society can cope with the mentally ill is to isolate them in large institutions - away from their families often for so long that all ties are weakened" (Lowry, 1965: 3). Community mental health care set goals of illness prevention, rehabilitation and support. It was to provide high quality, responsive care, more cheaply than the state-run hospital system (Holland, 1977: 96).

The state needed county participation to organize these new and humane systems. It used financial incentives to convince counties to take over service responsibilities from the state. The state volunteered to pay 50% of the cost of county-run community mental health programs, if the county would carry the additional 50% (Bradley, 1972: 182).

At that time the State Department of Mental Hygiene had high hopes for the decentralized Short-Doyle system. They began giving priority to establishing new county programs which would supercede running the state hospital system (Bradley, 1972: 182). Eventually

they expected all counties would run Short-Doyle Programs, and provide the mental health services which the "inhumane" state hospital system could not.

Some of the important Short-Doyle goals were:

- the "treatment of the patient in his home community, in close collaboration with the family doctor" (Blain & Rudin, 1962: 1);
- because of variance between counties, the individual county as the level of government best able to provide local services (Dept. of Mental Health, "Shared Vision," 1990: 9);
- basic mental health services for each county (Department of Mental Health, "Caring for Californians," 1990: 13 );
- for the county to obtain these services by contracting out, whenever possible, to utilize existing services rather than build new facilities or duplicate services (Lowry, 1965: 4);

By the time Short-Doyle was revised in 1962, the state was beginning to mandate county services. The Department of Mental Hygiene hoped state hospitals would serve only patients untreatable at the county level (Koran & Meinhardt, 1981: 936).



## THE BEGINNING OF DEINSTITUTION DECENTRALIZATION PHASE 2

The shifting of power from the state to the county level (decentralization) was also the first phase of deinstitutionalization. California became a national leader in the process of deinstitutionalizing, in fact, advancing it further than any other state (Elpers, 1987: 444). In 1958, the state hospital population was at its peak of 37,500 patients (Department of Mental Health, "Caring for Californians," 1990: 2). By 1967, the state hospital population had dropped to 21,966 patients (Bradley, 1972: 182). Vast numbers, many of whom had been institutionalized, or "warehoused," for decades, were released to their communities (Cook, 1989: 196).

Initially, because counties had to foot 50% of the bill for county services, not all of them opted to establish Short-Doyle Mental Health Programs, and thus did not have community services for their deinstitutionalized residents. In Fiscal Year 57/58, only seven counties containing 11% of California's population had county programs (Blain & Rudin, 1962: 7). A new type of program, Community Based Organizations (CBO), began to proliferate at this time of deinstitutionalization. CBOs are generally private, non-profit agencies, like half-way houses, who contract with the numerous county mental health agencies in order to meet regional mental health needs.

*California became a national leader in the process of deinstitutionalizing, in fact, advancing it further than any other state.*

In an effort to induce more participation the state increased funding to counties implementing the new services (Koran & Meinhardt, 1981: 936). In 1963, the state agreed to pay 75% of the cost and by Fiscal Year 64-65, 31 of 58 counties had local funded services (Lowry, 1965: 9). Even so, legislative studies showed that county services and the CBOs they contracted with were serving only the most rehabilitable patients (Department of Mental Health, "Caring for Californians," 1990: 3 & 16). Unfortunately, the chronic patients received little or no benefit from the newly implemented programs.

The drive for remedies to the problems of deinstitutionalization came from the State Legislature. In 1965, the Assembly Ways and Means Committee on Mental Health Services began research that would culminate in the Lanterman-Petris-Short Act (LPS) of 1967 (Bradley, 1972: 183). To the founders of the LPS Act the problem lay in the hospital commitment process (Bradley, 1972: 183). Involuntary patients, those hospitalized against their will, had to find their way from the state hospitals back to the county system (Department of Mental Health, "Caring for Californians," 1990: 3 & 16). Decentralization had to be thoroughly enforced for proposed Short-Doyle solutions to be effective.

Under the provisions of the LPS Act, involuntary extended commitment to hospitals became difficult. Patients could be held up to 17 days without mandatory court review, but involuntary care beyond that could be ordered only after full legal due process (Bradley, 1972: 183). Fewer patients, even chronic ones, could be held involuntarily, against their will which meant that fewer patients would be served directly by the state. This idea was popular with many state officials, including then-Governor Ronald Reagan, for the savings realized in the provision of hospital services (Bebitch Jeffe, 1987: 3). However, there is debate as to whether or not these savings actually materialized. Some say that savings were realized but were not reinvested in community mental health services, but rather into the State General Fund (Torrey, 1988: 156). Some, including members of the State Assembly Ways and Means Committee, believed that hospital operating costs did not drop below certain levels regardless of number of patients served, and that no savings materialized (Bradley, 1972: 184-85). Still others contended "community treatment was never as cheap as originally promised" (Elpers, 1987: 443). It allowed the dollar to be spread further, but produced no real savings.



In 1968, in a further attempt to enforce decentralization, the state began to pay 90% of the costs of county services (Bradley, 1972: 184). Because there was less reason to rely on the state hospital system, it was believed that the realized savings would trickle down to the county level resulting in increased, better quality community service.

## **FAILINGS OF THE 1967 DECENTRALIZATION**

The LPS Act, the "Magna Carta of Patient's Rights" had serious limitations (Cook, 1989: 195). Family members of the ill could no longer force crucial treatment on their relatives. Fewer doctors and law enforcement officials went through the steps necessary to involuntarily commit a sick patient to a hospital. By abolishing indefinite involuntary commitment, the LPS Act generated the next major wave of deinstitutionalization (Koran & Meinhardt, 1981: 936). Once released under the provisions of the LPS Act, patients were unlikely to find their way back to hospitals. Success for implementation depended on comprehensive, adequately funded community services in lieu of state-run hospital services (Bradley, 1972: 183).

The LPS Act put the "cart" of further deinstitutionalization before the "horse" of a stable, funded county system (Chase, 1987: 2). State hospitals rapidly emptied and many closed for good. Before 1968, there were ten state hospitals, by 1975 there were only six (Koran & Meinhardt, 1981: 936). By 1972, the state hospital population was only 8,235 patients (Bradley, 1972: 183). The premature closure of hospitals, along with inadequate local programs, was a major failing in the new plan. Before deinstitutionalization, the state hospitals provided a whole system of stabilizing supports - food, shelter and health care - to the inpatients receiving care.

By the 1980's some called the reforms of the 60's "civil rights enacted in a vacuum" (Bebitch Jeffe, 1987: 3). It could also be called "decentralization in a vacuum." The county did not receive the support, in projected hospital cost savings, it needed to successfully pick up where state-hospital deinstitutionalization had left off. Even the creators of the system like Alan Short agreed that it had failed. "Money was to follow the patient and they didn't do it. The money was for counseling, the money for medication didn't follow the patient (Cook, 1989: 197)." The burden of care, but not the money, was passed along to the county level (Greenblatt, 1992: 49).

## **DECENTRALIZE - PHASE 3**

In 1991, the California State Assembly passed a bill that went even further in placing the responsibility for mental health services at the county level. The Bronzan-McCorquodale Act provided for a "realignment" or restructuring of mental health funding. It placed all funding and responsibility directly at the county level, and in replacing the Short-Doyle funding mechanism, was called the "biggest change in state/county relations in state history" (Gunnison, 1991: 4). For these, and other reasons "realignment" became a case study in decentralization (Masland, 1992: 5).

"Realignment" was driven by an unprecedented fiscal crisis - a \$14 billion state deficit compounded with a nagging recession (Alameda County Mental Health Services, 1991). These problems foreshadowed a need for deep cuts in an already failing mental health system (Selix, Special Realignment Issue, 1991: 3).

In 1991, 92% of the state budget was "locked in" to pay for education, entitlements, COLA's and other statutory requirements (Haas, 1991: 1547). Mental Health was funded from the "discretionary" 8%, and with the deficit looming, drastic cuts in mental health seemed inevitable (Masland, 1992: 7). With an interesting twist, the drive to save mental health funding came from the governor's mansion. In January of 1991, Governor Wilson introduced a budget proposal which recognized the need to stabilize mental health funding (Selix, Special Realignment Issue, 1991: 3). Although the "realignment" he proposed was not a new idea the fiscal crisis of the 1990's made it look viable at last (Masland, 1992: 7).

Wilson's proposal would replace General Fund monies used to pay for mental health services with another fund of \$2.1 billion to be generated from increased vehicle licensing fees and a half-cent sales taxes increase (McKenna, 1991: 331). This money would be collected by the state and deposited directly to County Health & Welfare Trust Funds (Masland, 1992: 11). In bypassing both state and county general funds, the money was protected from budgetary cuts (Selix, "Governor's Budget...", 1991: 1). Better still, in 1991, these monies were viewed as a stable base that could rise 7-8% a year, if California sales tax income increased (Trombley, 1991: 3).

Viewed by Assemblyman Bruce Bronzan (D-Fresno) as "a way of avoiding catastrophe," realignment was a hard sell (McKenna, 1991: 332). In early 1991, it was suspiciously regarded by both mental health advocates, and also Republicans in the state legislature.

Republicans were wary of raising new taxes, and were reluctant to mandate that counties use the funds specifically for mental health (Masland, 1992: 9). Mental health advocates worried that without a state mandate, money provided to the counties for mental health might be used to fund other projects (Selix, "Governor's Budget," 1991: 1). Everyone felt it was essential for the money to follow the patient directly to the community.

What followed was a hasty formulation of consensus. As it became clear that mental health monies would suffer in the General Fund, advocacy organizations agreed to support realignment if it would earmark county funds for mental health (Masland, 1992: 8). Republicans came around to realignment because it gave them the opportunity to decentralize mental health and reduce state government control (Masland, 1992: 9). Because this realignment change is so recent, there must be a focus on potential impacts of this new system of decentralization. From the state's perspective, realignment can produce many positive outcomes. Counties can better coordinate inpatient and community services when funding sources for both are kept in one "pot" at the county level. The county may also be more responsive to the public than the state by providing greater opportunities for community and consumer involvement (Masland, 1992: 19). Also, spending flexibility may allow counties to place an emphasis on innovative community based services (Masland, 1992: 16).

County Mental Health Departments benefit by receiving administrative and financial control over client services. They must develop funding priorities with all mental health dollars they are allocated (Clinton, 1992). This will give counties greater autonomy in the provision of Mental Health services than they have ever known (Selix, Special Realignment Issue, 1991: 7).

Counties will have greater flexibility in choosing services to purchase - like contracting with CBO's (Trombley, 1991: 3). Realignment potentially affects contracting CBO providers in interesting ways. Some providers feel that realignment gains or losses will depend heavily on the county one is in and on relationships with County Mental Health Departments. Each county is different with rural counties having little reserve money. They are being hit hardest by the current drop in sales taxes, and thus in realignment funds. Many CBO's are being "released" from their county contracts (Crispino, 1992).

In addition, CBO funding now depends on local political support. And in less progressive counties where private CBO's are not as active, things can regress even further. Much, then, depends on local relationships. The CBO will have to compete with other parts of the

mental health system such as the fund administering county agency. Politically, the CBO must be linked to the county more than ever before, yet it must be cautious in defining county priorities, target populations and service needs. CBO's must continuously track the county budgeting process. They must help the counties justify CBO expenditures to the state and taxpayers by providing innovative, cost-effective service (Clinton, 1992). CBO's must make themselves indispensable to County Mental Health Departments by serving the most difficult, under-served populations - like mentally ill substance abusers (Crispino, 1992).

It is important to note that the realignment bill does not specify what mental health services counties must provide. Counties could opt to spend all their monies on hospital services. CBO's and local interest groups must keep County services responsive, creative, and community-based (Crispino, 1992). But given the intent of realignment - to move away from state government regulation - the CBO potentially has a far more integral role in policy formulation (Clinton, 1992). Says Paul Clinton, Executive Director of the Alameda Council of Community Mental Health Agencies, "this is an exciting and risky time for the CBO. We're beginning to play politics."

Some weaknesses of the Bronzan-McCorquodale bill are already apparent. Realignment money is based on sales taxes which decrease when the economy is hurting (Clinton, 1992: 21). As of May, 1992, there was a funding shortfall of \$48 million in earmarked sales tax revenue (Business Wire, 1992: Lexis/Nexis). Realignment could also result in incoherence across county lines, with over 50 completely different mental health systems (Masland, 1992: 22). And counties which do poor jobs in providing services may "dump" clients on those counties that do good jobs, burdening the good, and denying the poor a chance to improve. Problems like these may ultimately put the burden of improving the mental health system back in the governor's or legislature's hands.

But realignment's greatest potential impact is that it may have saved California's mental health system. In 1991, nobody would have guessed that mental health funding would remain relatively stable through two very rough fiscal year budget negotiations, but indeed it has. Without realignment says sponsor Dan McCorquodale, the mental health budget would have been cut 40% in Fiscal Year 92-93 (Trombley, 1991: 3). ♦♦

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# Marin City: A Microcosm of Poor Health

Written by Shannon Sheppard

Edited by Julie Taylor

Marin City is a low-income community situated in California's wealthiest county, Marin. The city was developed fifty years ago to house 6,700 shipyard workers and their families during World War II. Comprehensive health care was part of an inexpensive package provided to residents. Today, in stark contrast to its beginnings, Marin City has no on-site medical care. The city's unequal access to health care serves as a microcosm for problems faced by low-income minority populations across the U.S.

## INTRODUCTION

The statistics are overwhelming, the news articles revealing, and the implications frightening - there is a health care crisis today in the United States. A recent headline proclaimed, "39 Million Won't Have Health Coverage," (S.F. Chronicle, 10/15/92) while another warned, "Too Few Children Immunized in U.S." (S.F. Chronicle, 10/22/92).

However, for the 30 million African-Americans (U.S. Census, 1991) living in the United States, the news isn't new. African-Americans die of tuberculosis at seven times the rate as white Americans (Hacker, 1992: 231). African-Americans over the age of 65 have nearly three times the rate of diabetes as white Americans (Lipson, 1988: 3), account for 30% of people with AIDS in the United States (Russell, 1993: A1), and African-American men have a 45% higher incidence of lung cancer (Wimes, 1990-91: 45).

***The continuing crisis of African-American health care is a direct result of centuries of de jure and de facto racism in this country and inequality of access is a major by-product.***

Despite modern technology, the black/white gap in infant mortality has actually widened. In 1940 the white infant mortality rate was 43.2 per thousand live births compared to 72.9 for African-American infants, a multiple of 1.69. In 1990 the rate was 8.1 for white and 16.5 for African-American infants, a multiple of 2.04 (Hacker, 1992: 231). While African-American children make up

only 15% of the U.S. childhood population, they account for approximately 53% of pediatric AIDS cases (National Institute of Child Health & Human Development, 1990: 1).

The continuing crisis of African-American health care is a direct result of centuries of de jure and de facto racism in this country and inequality of access is a major by-product. Dr. Leffall in his report, Health Status of Black Americans states, "Black Americans experience complex health disadvantages, which are exacerbated by a combination of poverty, racial bias, ignorance, and lack of access to quality health care." (Leffall, 1990: 121) Jones and Rice conclude in *Contemporary Public Policy Perspectives and Black Americans*:

...the contemporary crisis of black health care is a direct result of the conditions of life in Black America. The cumulative efforts of poverty, unemployment, poor housing and so forth produce health conditions that are much worse than those of the white population. Although improvements in the delivery of health services have reduced some of the black/white disparities, they have not changed the basic needs for access to and availability of health care to the larger segments of the black community (Jones & Rice, 1984: 169).

Lack of access to health care has several major components including an under supply of physicians in African-American communities. Only 3% of California physicians are African-American. In the predominately African-American Los Angeles community of Compton the physician to population ratio is 1/1541. Compare that to the predominately white Los Angeles

community of Santa Monica where the physician to population ratio is 1/220 (Black Health Agenda [BHA], 1990: 9).

Lack of proximity to medical facilities is also an issue. Low-income people are much more likely to rely on hospitals and clinics as their source of medical care and must travel longer distances to see a physician (Brown, 1984: 64). Statistics show that almost 50 percent of African-Americans obtain medical care at clinics, emergency departments or other organized settings (BHA, 1990: 7).

Lack of insurance, and the refusal by many physicians to see patients on Medicaid also contribute to the problem of access. In 1986, 29% of African-American children and 25% of African-American non-elderly adults were uninsured (BHA, 1990: 8). In addition, one-fifth of all physicians see no Medicaid patients (Brown, 1984: 64).

The net result is that 9% of African-Americans are not receiving health care for economic reasons. Of African-Americans with hypertension (high blood pressure) 30% did not see a physician in 1987 and 50% had no dental visits (Leffall, 1990: 123). It is no wonder the life expectancy at birth for African-Americans is 70.3 years compared to 76.0 years for white Americans (Hacker, 1992: 231).

These inequities are not limited to the inner cities and rural America. One only has to drive across the Golden Gate Bridge to Marin City, located at the southern end of Marin County, for a glaring microcosm of the problems faced by African-Americans regarding health care. Ironically, Marin County is the richest county in California and the fourth richest in the United States, based on per capita personal income (Marin Council of Agencies, 1992).

## MARIN CITY

Marin City is a primarily low income community of 2,009 residents that is 59% African-American (U.S. Census, 1991). This 350-acre unincorporated community is nestled between the overwhelmingly white towns of Sausalito to the southeast and Mill Valley to the northwest and is surrounded by the ridge lands of the Golden Gate National Recreation Area and Highway 101. This geography makes it easy for the majority of Marin County's 88% white population to drive past, without so much as a glance or a second thought.

Seventy eight percent of Marin City's African-American residents live in, what is known as the, "Bowl Area" (United Way, 1990: 18). According to 1988 figures, 37% of this area's households had an income below \$10,000 (United Way, 1990: 127). It is the site of the county's largest public housing project, consisting of apartments, condominiums and single family houses. The only commercial facilities are a small grocery store and an open-air flea market held on weekends. Medical offices are non-existent, creating the largest community in the county without a practicing physician.

## HISTORY

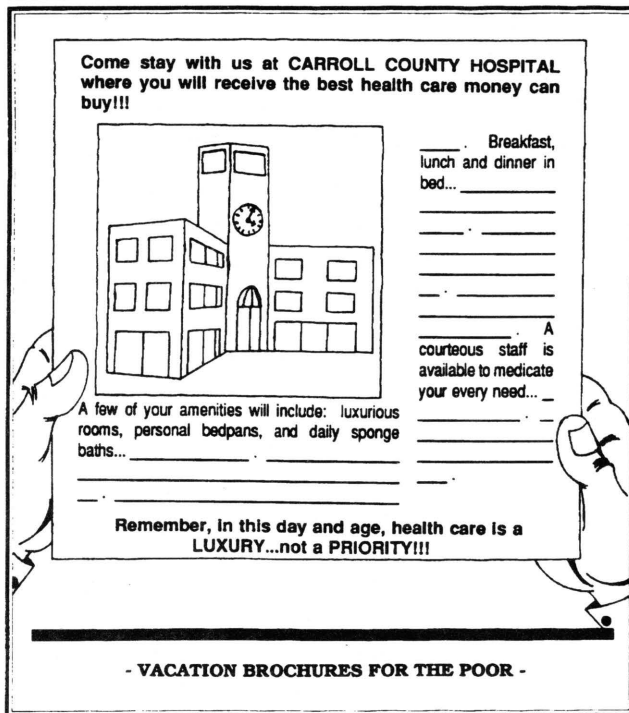
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Fifty years ago all Marin City residents were provided with inexpensive community based health care. As a model project the city gained national attention, due in part to the comprehensive health services its citizens enjoyed. The city's early history provides us with a vision of what is possible when the government puts a priority on the health and well-being of its citizens. Unfortunately, Marin City currently illustrates an all too common example of what happens when it doesn't.

Marin City was erected in 1942 to help house some of the 22,000 workers and their families recruited to build liberty ships at Bechtel's Marinship shipyard in Sausalito following the United States' entry into World War II. These newly arrived workers were part of a massive migration from the South and Midwest that increased the state's population by 50% (Henshaw, 1991: A17) and changed the face of California. According to World War II historian Charles Wollenberg, "The great World War II migration is the most important event in the history of black people in the Bay Area" (Wollenberg, 1990: 70). The region's African-American population tripled, from 20,000 in 1940 to over 60,000 in 1945. Seventy percent of the newly arrived African-Americans were employed in the shipyards (Wollenberg, 1990: 70-71).

A cooperative effort of the federal government, the Housing Authority of Marin, and the privately owned Bechtel, the Marin City project was ready for occupancy only three months after the proposal was formally approved (Wollenberg, 1990: 86). By the end of 1943, Marin City's population was almost 6,000 (Wollenberg, 1990: 86) and half of the residents were African-American (Fletcher, 1981: 124). The community eventually included a post office, library, community hall, elementary and nursery schools, barber and beauty

WHIMPERWORLD BY BANNING



shops, shoe repair, laundry and dry cleaners, grocery, drug store and general merchandise (Wollenberg, 1990: 88).

One of the most important and innovative services for residents of Marin City was prepaid medical care provided by the California Physicians' Service. The cost of medical care was included in their rent (Wollenberg, 1990: 86). Services included 21 days' hospitalization, laboratory examinations, treatment by specialists and home visits (Housing Authority of the County of Marin [HACM], 1944).

Five doctors and ten nurses staffed the 24 hour Medical Center which provided an 18-bed infirmary for patients who did not require hospitalization. In 1943, the staff handled an average of 800 cases a month at the center and made an average of 500 housecalls per month. About eighteen people were hospitalized and seventeen referred to specialists monthly. The Housing Authority report proudly states, "All of these services are given so that the efficiency and morale of defense workers will not be impaired by unnecessary anxiety" (HACM, 1944).

By the time the Japanese surrendered on August 15, 1945 Marinship was already winding down production, formally closing in May 1946. Terminated workers were allowed to remain in the Marin City housing project "for a reasonable time" (Wollenberg, 1990: 96). The end of the war also signaled the end of social and

health services that were important in keeping up worker morale and eliminating "unnecessary anxiety."

African-American workers were severely affected by the closure of the shipyard. Housing discrimination prevented those who could afford to move from doing so and many of these highly skilled workers remained unemployed or were forced to take low paying, unskilled jobs. By 1948, more than 15% of Bay Area African-American men were unemployed (nearly triple the state-wide rate for all persons) and 50% were employed as unskilled laborers or service workers (Wollenberg, 1990: 83). White residents gradually moved out, finding jobs and housing elsewhere. By 1960 approximately 80% of Marin City's 2,519 residents were African-American (Smith, 1965: 4).

In 1955 the Housing Authority of the County of Marin purchased the Marin City site from the federal government. The Board of Supervisors established a Redevelopment Agency, which in turn purchased 121 acres of the site. The goal was total redevelopment that included low-rent public housing, private middle-income housing, apartments and more expensive housing. The plan also included provisions for a shopping center, schools, churches, community center and recreation areas (Smith, 1965: 4).

## A QUESTION OF ACCESS

Concern regarding the lack of adequate services for residents was expressed at the time by social and health agencies and Marin City tenant groups. In 1959 the Marin City Program Advisory Committee was formed to facilitate "social engineering" along with physical development. The committee included the public health nurse who served southern Marin. The program was funded for five years (Smith, 1965: 5-6). An office was opened in the old Public Health Building, which also housed the public health nurse, a physician, a dentist, a church and the Marin County Sheriff's Southern Marin station (Smith, 1965: 5, 6, 8).

However, by the spring of 1962 the building of the new main road necessitated the demolition of the old business district, including the Public Health Building. According to Smith, "Preoccupation with detailed steps of the physical development of the community shifted concentrated interest away from social planning development" (Smith, 1965: 8,9). Once the new housing was completed, construction stopped due to lack of funding.

Residents and various other interested parties have tried over the years to bring needed health care services to the city. In October, 1969, at the request of residents,

a free pediatric clinic opened. Staffed by volunteer pediatricians and nurses in the evenings, the clinic emphasized preventive care and counseling, in addition to detecting and treating illnesses. Program Director Charlene Anderson explained, "It's not that the parents don't care about their children - they love them very much, but when you have to worry about where your next meal is coming from...a physical examination for a child who doesn't seem ill is a luxury" (Angle, 1969).

Despite the fact that the clinic saw eight to ten children each night, it closed ten months after opening due to lack of funding. It wasn't big enough to qualify for a federal grant and, according to Anderson, the county refused to participate because, "They feel that the problem is one of transportation that if the people of Southern Marin could get to a doctor they wouldn't need our clinic" (Nevin, 1970).

Not much has changed since the 1972 Marin City Master Plan concluded that, "The community would benefit by having a medical facility and/or doctors' offices...the [County Public Health Department] service is inadequate...[and] that few Marin City residents avail themselves of service at the [Public Health Clinic in San Rafael] because of transportation difficulties" (Marin City Master Plan, 1972:55 & 99).

Infrequent bus service, poor bus stop location, a twenty minute ride, and at least a three block walk to medical offices create an access barrier. Most of Marin County's health facilities are in the central part of the county. Marin General Hospital, the area's community hospital; Marin Community Clinic, a low-cost health clinic; and a large percentage of physician offices and ancillary services are located in Greenbrae, approximately seven miles from Marin City. Planned Parenthood and Marin Maternity Services, which provide perinatal care to low-income women, and public health department clinics are all located further north in San Rafael. According to Terry Harris-Green, Executive Director of Marin City's Step II Educational and Vocational Project, "Our focus is getting kids to stay in school, but it is difficult to achieve when a high school student has to leave school [in Mill Valley] at noon, in order to catch the two buses necessary to take them to San Rafael for a 1 pm clinic appointment, and then they can't get back before school lets out" (Harris-Green, 1992).

In addition, the few services that are available in Marin City are not always offered at appropriate times. The Marin County Public Health Department has a mobile unit that comes to Marin City every Wednesday from 1pm - 3pm. Services include blood pressure screening and testing for tuberculosis, HIV, other sexually transmitted diseases, and pregnancy. However, the mobile clinic is gone by the time middle school and high school

students get back to Marin City from their respective schools, thereby missing a significant portion of the adolescent population.

## **NEED INCREASES AS FUNDING DECLINES**

Housecalls are crucial, due to the homebound status of many residents. However, due to budget cuts physicians are no longer available to offer this service (Gaines, 1993). The Department of Health and Human Services has proposed a \$2.7 million cut in the county's budget (Peterzell, 1992: A1). Home visits by public health nurses are now made only for high risk obstetrical and infant care as a result of budget cuts. Monthly Family Planning services in Marin City were started in November 1992, but it is still questionable if funding will be available for the remainder of 1993.

The number of Marin County physicians willing to accept low-income Medi-Cal patients is limited, especially among obstetricians/gynecologists (United Way, 1990: 69), and pediatricians. Currently no neurology pediatrician in the county will accept Medi-Cal, even though there is an increasing need among high-risk infants and children of low-income families (Marin Council of Agencies, 1992: 13).

Marin County is second only to San Francisco in per capita AIDS cases within California (United Way, 1990: 48). Although African-Americans make-up only 3.6% of Marin County's total population (Bureau of Census, 1991), they account for 6% of reported AIDS cases through October 1992 (Department of Health Services, 1992). Yet the Marin City AIDS Project has been turned over to the Marin AIDS Support Network and there is no longer full-time personnel in Marin City.

Nicole Price, Youth Coordinator of the Step II Youth AIDS Prevention Project sees a need not only for increased AIDS services, but for dental facilities as well. She also points out that mobile units, temporarily funded projects and monthly clinics are not the real answer. "People get sick more than one day a week...there is a lack of consistency and reliability and a reluctance to use these facilities. People view them as, 'They have a grant, they will be here for six months then leave.'...It would be much more helpful to have someone here all the time" (Price, 1992).

## **CONCLUSION**

A commitment by the government, private health care providers and developers is needed to address the health care needs of Marin City's citizens. Currently in



progress is the \$100 million Marin City USA project, a 45-acre mixed use development in the Marin City "Bowl Area." The development consortium is made up of several community development groups. In addition to 340 residential units, the proposal calls for 186,645 square feet of retail and personal service use. The commercial space is to be anchored by a food market, home improvement/garden center and a discount drug store (Marin City USA Precise Development Plan, 1992).

With a pharmacy already slated for the site, medical offices and support services should be incorporated into the plan while recruiting physicians and dentists who accept Medi-Cal and Medicare patients. Existing Marin City community programs, must also be encouraged to open offices at the site. Volunteer groups, such as the American Cancer Society, need space to educate residents about diseases that have a disproportionate impact on the African-American community. However, ultimately local and state governments must make a commitment to provide better health care for all citizens.

Fifty years ago, Massachusetts Congressman George Bates said that of the hundreds of war housing projects he had seen, "none so ideally meets the requirements of a community of war workers," as Marin City (Wollenberg 1990: 90). Fifty years ago both black and white residents of Marin City had equal access to inexpensive community based full service health care. Fifty years ago Marin City was a role model for the nation because a priority was placed on the health and well being of all its residents. Today, an equitable health care system is needed to begin to reverse the trend that has the health status of African-Americans in decline. African-Americans die of tuberculosis at 7 times the rate for white Americans...2.6 times of infections...2.5 times of nutritional deficiencies... (Hacker, 1992: 231). ♦♦

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# America is Ready for Universal Health Insurance

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Edited by Maggi M. Morehouse

An evaluation comparing the health care systems in the U.S. and Canada reveals the strongest reasons for Americans to endorse a universal health insurance plan. Biased insurance practices intensify the problems associated with costs and access to health care. Individual insurance subscribers have found their policies canceled after having developed an illness. Insured groups are arbitrarily selected and exclusionary rules discriminate against some high-risk candidates or pre-existing condition patients. In addition, experience ratings hold an entire insured group responsible for the costs of its members illnesses. The rationale is none other than profit motivation. When the sick can no longer get health insurance, the concept of insurance really does not exist anymore.

## NATIONAL HEALTH CARE REFORM IS NEAR

The need for national health care reform in America has given rise to a growing movement for a revolution in the health care industry. This revolution could create a new medical marketplace. Recognizing the magnitude of the problems associated with providing affordable health care for more Americans, the new Clinton Administration has targeted health care as one of its two highest priorities.

In order to achieve a more efficient allocation of medical resources, I propose that the American government adopt a single-payer national health insurance program similar to the Canadian model. The following analysis compares the health care systems in the United States and Canada, pointing out the inadequacies of America's capitalistic medicine as well as some of the most legitimate complaints concerning the Canadian system. An overview of the structure of the Canadian health care system however, illustrates that the advantages of a single-payer health system outweigh, by far, any potential disadvantages that the system may introduce.

## THE CANADIAN HEALTH CARE SYSTEM

If one were to ask why Canada has a universal, government-operated health insurance program, perhaps the most direct answer is that the people of Canada want it.

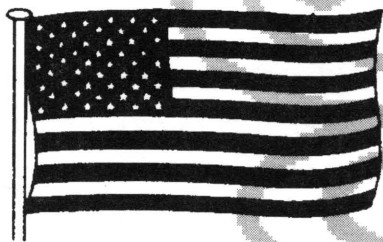
The idea first received significant support in the Liberal party in 1919. Due to the strength of the forces opposed to such a dramatic change—mainly political factions, medical provider organizations, and the private insurance industry—a half-century passed before national health insurance became a nationwide reality. Public opinion polls indicated that from 1944 to the mid 1960's, 80% of the population was in favor of such a plan. In spite of this overwhelming support, national medical care insurance was not adopted in Canada until 1968 although national hospital care insurance began in 1958 (Taylor, 1987: 493).

*If one were to ask why Canada has a universal, government-operated health insurance program, perhaps the most direct answer is that the people of Canada want it.*

The basic requirements of Canada's health insurance program are universal coverage, comprehensive benefits, accessible health care that is transportable from one province to another, non-profit public administration, and 40-50% federal funding. Health services are available to all Canadians on equal terms and conditions with no financial barriers to essential services.

The health programs are administered by public agencies, accountable to legislatures and electors (Taylor, 1987).

The costs of health services for the indigent are assumed by the federal and provincial governments and not by municipal governments where the heaviest burdens are likely to occur in municipalities least able to pay (Taylor, 1987: 492). The total costs of health services are no longer sustained primarily by the sick and those able to obtain voluntary insurance, rather all income earners bear the cost through payroll taxes. This payment system serves to provide universal access, distributing costs over the broad economic range of society, and prevents cost shifting. In the U.S. an estimated 13% of a private patient's bill comes from costs shifted from the bills of patients covered by public programs, group discount arrangements, and uncompensated care (Stoline, 1989: 91).



In Canada, there is a single-payer for health care. The government replaces the medical insurance industry and finances all health care. Canadian physicians have the option to offer care on the standard "fee-for-service" basis if self-employed or may arrange for a salary basis in government health centers. A Canadian physician is paid on the basis of a single report to the health department or medical services bureau and the hospital receives its payment in the form of a global budget for the year. The medical associations determine the desired structure of a binding fee schedule and consequently negotiate annual increases with the provincial governments. In addition, some of the provinces impose an annual global cap on the total expenditures for all physicians' services (Marmor, Mashaw, 1990: 20).

The rate schedules and global spending caps for physicians' fees and services adequately limits reimbursements and very effectively contains costs. Balance-billing—when physicians directly bill an insured patient for charges exceeding the allowed reimbursement rates of the insurer—is not permitted in Canada's national program because it is believed that practice would endanger the principle of reasonable access to health care (Taylor, 1987: 430-432). One study comparing physician care in both the U.S. and Canada found that although per capita expenditures on physicians' services in the U.S. exceeded those in Canada by 72%, the per capita quantity of physicians' services in the U.S. was actually 28% lower than services administered in

Canada because U.S. fees averaged an astounding 139% higher (Aaron, 1991: 81).

Fee regulations in Canada have not adversely affected the income of physicians. Prior to the introduction of national medical insurance, physicians were the highest paid professionals in Canada and they remain so today (Marmor, Mashaw, 1990: 25). In comparing administrative expenses between self-employed Canadian and U.S. physicians, on the average, Canadian physicians spend less and net 14% more from the gross incomes of their practices revealing remarkable results of cost containment efforts in areas that do not jeopardize a patient's well-being (Salisbury, 1991: 42).

The Canadian government must periodically negotiate collective agreements with the almost entirely unionized health-care sector. This includes negotiating fee schedules with physicians and other providers. Occasionally, unexpected consequences may result as was the case during 1989 in British Columbia when the

health care system was virtually shut down for 17 days due to a nurse's strike. Although the government arranged for 200 heart bypass surgeries to be performed in Se-



attle, Washington, the Provincial Cardiac Society estimated that 12 to 20 patients had died waiting for operations (Walker, 1991). Nevertheless, before the introduction of universal access to health care in Canada and Great Britain, both countries had age-adjusted mortality rates that were higher than those in the United States; after adoption of the national plan a sharp decline in mortality occurred. Current mortality levels in both Canada and Great Britain are slightly lower than current levels in the U.S. (Salisbury, 1991: 3).

## HEALTH CARE COSTS AND ACCESS

America's excellence in medical research and technology has demonstrated the ability to deliver the highest quality health care in the world, yet there is widespread dissatisfaction with the American health care system. The main reason for the dissatisfaction is because the U.S. provides less access to health care than any other industrialized country except South Africa (CBO, 1991: i x). Statistics reveal that more than 75% of the estimated 37 million Americans currently uninsured for health care, consist of workers and their dependents. Yet less



than 50% of the total poor population in the U.S. is covered by the publicly administered Medicaid program (Tallon, Block, 1988: 121,123). The merits of Medicaid are commendable when considering the Americans who are fortunate enough to receive health care within the program, but far too many Americans in dire need of basic medical services are ignored. For example, in Oregon a family of four cannot qualify for Medicaid if their income is greater than \$6,493 a year due to the eligibility requirements (Egan, 1991).

The United States limits health services by the ability to pay, and as a result there are significant differences in access to health care by race, class and employment circumstances (Marmor, Mashaw, 1990: 24). Low-income families that do not qualify for Medicaid cannot afford expensive medical insurance premiums. Meanwhile, most health care providers in America, physicians and hospitals alike, will not provide treatment for the ill who do not possess adequate medical insurance coverage. During a 28 month period that ended in May 1987, more than one out of every four Americans or an estimated 63 million people lacked health insurance for at least a month or more (Pollack, Torda, 1991: 94). The prohibitive costs and restricted access to health care services are viewed by many critics as leaning towards social Darwinism which describes society's culture in terms of "the survival of the fittest" by claiming superiority of the elite classes in the struggle for existence (Reinhardt, 1989: 103).

The United States spends more money on health care than any other country in the world, yet ranks next to last in access to health care among industrialized nations. Average health care spending per capita in the U.S. in 1989 was 40% higher than the comparable amount in Canada (Pear, 1991). The U.S. spent \$838.5 billion or approximately 14% of its gross national product (GNP) on health care in 1992 (Pear, 1993). In comparing these expenditures with those of other countries for 1990, Britain spent approximately 6.1% of its GNP on health care, Japan 6.5%, and Canada, France, Germany, and Sweden were all between 8-9% (Pear, 1993).

Medical price inflation is generated in part by expanded technological capacities and services from large capital investments and the resultant increase in operating expenses. Together, medical price inflation along with service consumption and intensity were responsible for an estimated 57% of the rise in health care costs in the U.S. during 1985-86 (Raffel, 1989: 224). Service consumption is attributed to consumers' demands, at times excessive, for all the best medical services available regardless of the costs. Additionally, physicians create demand by ordering services. Widespread malpractice suits often compel doctors to require unessen-

tial tests for patients. High staffing ratios in hospitals raise service intensity. Basically, without adequate cost-containment measures, the American health care system has developed into one that is inherently inflationary.

In comparison, Canada is able to contain medical care costs through the physician fee schedules and global spending caps. Canadian hospitals negotiate prospective budgets for their operating costs with provincial governments who ultimately control spending. Reimbursements for capital costs are negotiated in separate budgets with specific projects and new technological

***The United States limits health services by the ability to pay, and as a result there are significant differences in access to health care by race, class and employment circumstances.***

equipment carefully planned and implemented upon approval by provincial governments (Aaron, 1991: 96-97). The planning process, which also includes global spending caps, identifies gaps in service, the inaccessibility of services, the over-utilization of service, and the inappropriate use of services. Subsequently, the specific medical services most desirable for a community's health needs may be successfully coordinated (Hyman, 1982: 586-588).

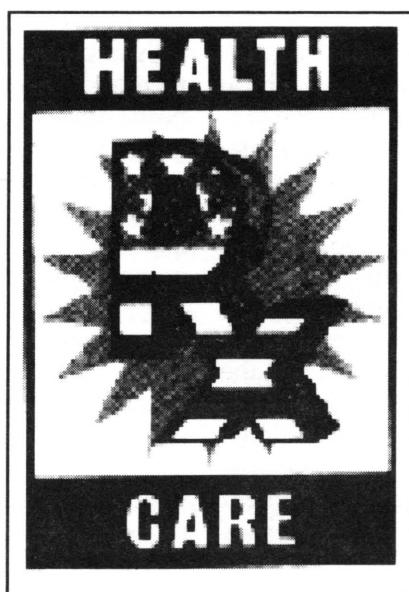
Another major difference in the American and Canadian health care systems is that overall administrative costs for the American medical industry have recently been estimated between 19% and 24% of total health care expenditures (Relman, 1991: 856). In contrast, Canada currently spends only 2.5% on public health administration (Salisbury, 1991: 38). An analysis of California hospitals in 1983 revealed that 18.3% of total hospital costs are derived from administration and accounting services, attributable in part to the fact that some California hospitals have as many as 150-200 different health plan contracts to administer (Himmelstein, Woolhandler, 1986) (Salisbury, 1991: 38).

While health care costs rose 85% in the U.S. between 1980 and 1986 the administrative costs of private health insurance rose an astonishing 249% during the same period. These costs continued to rise even though access to health care diminished for more Americans each year (Salisbury, 1991: v). If the U.S. eliminated the overwhelming duplication of paper-shuffling bureaucracies found in health and insurance administration,

the 37 million U.S. citizens currently without health insurance could be provided medical coverage from the savings alone (Walker, 1991). An increasing share of the money that Americans think they are spending on hospital and medical care is in fact paying for lawyers, accountants, administrators, public relations, and other forms of personnel services not usually considered as contributing to the health of patients (Marmor, Mashaw, 1990: 22). For example, Blue Cross of Massachusetts employs 6,800 personnel to handle billings for its 2 million subscribers. The Canadian billing administration employs less personnel for its entire health care system (Himmelstein, 1992).

The pharmaceutical industry in the U.S. is spending \$1 billion more each year on advertising and lobbying than it does on developing new and better drugs (Berke, 1993). Every dollar spent on vaccinations for measles, mumps, and rubella saves \$10 in long term costs, yet fewer than half of all 2-year-olds in the U.S. are fully vaccinated (Reiner, 1993). In Canada, vaccines are available to everyone. Bolivia and Haiti are the only two countries in the western hemisphere that have exhibited poorer immunization records than the U.S. (Time, 1993). A complete series of child vaccines purchased from private doctors in the U.S. in 1982 was \$23.29 and rose to \$243.90 by 1992 (Berke, 1993).

Furthermore, preventive health care programs receive less than 2% of all dollars spent on health care in the U.S. (CHFC, 1980: 47). The U.S. is paying for this lack of health education in curative not preventive medicine. The effect of this lack of access to medical care is evident in the rising costs associated with the increase in acute illnesses. People who cannot afford medical attention usually end up in emergency rooms with advanced stage illnesses raising treatment costs profoundly. A recent survey revealed that 20.5% of Medicaid patients sought emergency room care in 1991 because they did not have a regular doctor. Physicians turn away Medicaid patients primarily because of low reimbursements. Nationally, Medicaid fees average approximately 60% of what Medicare and private insurance companies pay (Irving, 1993).



## THE QUALITY OF HEALTH CARE PROFESSIONS AND INSTITUTIONS

Critics of the Canadian health system have argued that restricted spending in the global budgets has developed a shortage of equipment necessary to implement technological innovations (Aaron, 1991: 102). In the long run, the quality of health care delivery could be affected should this situation be allowed to continue, as many Canadians would seek acute-care in countries that have more advanced medical technologies. Proponents of the Canadian

system argue that in many instances the medical market competition in the U.S. has produced an over abundance of technology from profit motivated investors causing superfluous medical costs that restrict access for the poor.

The essential goal of an efficient allocation of medical resources is to match all community health needs with the corresponding access to appropriate health care. It appears that neither Canada nor the U.S. optimize capital allocation, although I am more inclined to advocate the centralized resource planning efforts of the Canadian system. This approach seems more practical in saving lives than the aggressive, independent, for-profit investment markets that finance health care capital in the U.S.

Looking at the quantities of technological equipment in the United States and Canada, the U.S. has produced an excess concentration of capital in some areas. In Canada, insufficient resources could possibly affect health status with lengthy waits and the long distance travel that is required for many services. For example, the San Francisco Bay Area has more than 70 magnetic resonance imaging (MRI) machines, while the Canadian province of British Columbia, with a comparable population, has a total of three. In one U.S. city alone—Seattle, Washington—there are more computerized X-ray machines, commonly known as CAT scanners, than in all of Canada (Farnsworth, 1992). Additionally, the U.S. has nearly eight times more radiation-therapy units per capita, than does Canada (Salisbury, 1991: 30).

In 1985, after examining the records of 37,994 patients admitted to more than 100 hospitals in Massachusetts with circulatory problems or chest pains, researchers revealed that privately insured patients had an 80%

greater chance of receiving an angiography, a test for clogged arteries, than did those without insurance (Salisbury, 1991: 21). This study raises serious ethical questions about the quality of health care in the U.S. One could easily conclude that either the poor population in the U.S. is not getting the care they need to survive, or the well-insured are being given far too much unnecessary care. In Canada there is no disparity in the quality of care received by patients, where the ability to pay for health care has no significance in regards to the diagnostic procedures or treatments received. High-risk heart patients in Canada and the U.S. experience virtually the same rates of death and recurring heart attacks. Research results from 19 Canadian and 93 U.S. hospitals between 1987 and 1990 show that only 22% of Canadians receiving heart treatment died, compared to 23% in the U.S. Thirteen percent of the U.S. patients had another heart attack versus 14% in Canada (Snider, 1993).

Universal health insurance does not deny citizens the right to choose their own doctor. Canadian citizens have no restrictions on their choice of physicians, and their physicians do not have to obtain approval from administrators for recommended treatments. In the U.S. approximately 95% of the 153 million Americans who are insured through their employers are in some type of managed care health plan (Relman, 1993: 133). Managed care groups such as health maintenance organizations (HMO's) and preferred provider organizations (PPO's) often apply rules, restrictions, and utilization reviews in the selection and control of physician and hospital practices. Although managed care is rapidly gaining popularity in the U.S. with the number of subscribers escalating dramatically each year, in my view the freedom of choice offered to patients and providers in Canada is still more desirable. There are substantial savings for health consumers subscribing to HMO's because of the capitation system of financing, where health providers receive prepayments to provide health services. However, critics warn of the incentive for HMO providers to deliver less care to patients when service demands exceed revenues collected (Stoline, 1989: 86).

## EQUITY IN THE METHODS OF FINANCING HEALTH CARE

Determining an appropriate spending level for national health care is debatable, while the real issue is how to apportion the cost of health care to the individual members of society. The Economic Council of Canada reports that the lowest 20% of income earners in Canada paid only 1% of the cost of Canadian health programs, while the highest 20% contributed 48% of the cost (Taylor, 1987: 499). A national health insurance

program for America has long been considered politically impractical, because it is believed the prosperous members of society are unwilling to pay for the medical needs of the poor (Gray, 1987: 210-213). Worth noting, is the responsibility for aggregate health care costs which ultimately falls upon the paying members of society whether in the form of taxes or higher private insurance premiums that result from the soaring costs of the entire medical industry.

Researchers from the Health Access Foundation proposed a detailed budget in 1991 demonstrating that the same dollars currently spent on health care in the state of California could provide universal, affordable, comprehensive health care coverage for all Californians with an insurance program similar to the Canadian model. By rearranging the system of financing health care to achieve greater efficiencies and accountability of health care dollars using cost-containment mechanisms much like those in Canada, this plan proposes to collect all monies currently paid as medical insurance premiums plus tax dollars which now finance public health coverage, and place these funds into a single, publicly financed system (Salisbury, 1991: 33).

The Health Access plan would provide more benefits than the private insurance industry currently offers including the addition of dental care and long-term care, plus provide coverage for the 6 million currently uninsured residents in California (Salisbury, 1991: 32). If such a plan can be successfully drafted in a state with a total population of 30 million, then presumably the plan could function effectively on a national scale. In fact, since the public financing of medical care has proved to work well in Canada, it is reasonable to think it would work well in the United States.

The success and equity of the Canadian health model have actually legitimized the demand for a single-payer national health plan in the U.S. Even the positive impacts of Medicare and Medicaid have undermined opposition to national health insurance in America. Opponents to a national health insurance plan often argue that Americans cannot afford it. Today the question is, can America afford not to adopt it? Rampant medical inflation is evident in the U.S. from the figures showing that health expenses for American businesses were only 14% of net profits in 1965, while corporations now spend as much on health benefits as they currently make in profits (Pollack, Torda, 1991: 93). Canadians pay higher income taxes than Americans, but the total financial burden on Americans could be lower with a national health insurance. (Holahan, 1991: 58).

I believe the Canadian health model is the most efficient way to provide universal access to health care. The U.S.

government is experiencing large yearly deficits with medical costs accounting for a significant proportion of the debt. In 1986, federal, state, and local governments in the U.S. paid 41% of all health care expenditures (Stoline, 1989: 37,59). In the same year, the proportion of hospital services paid by U.S. government sources was 53% (Stoline, 1989: 38). Additionally, taxes subsidize both public and private medical school education with an estimated \$30-\$50,000 per year per student cost. Likewise, medical residency training is subsidized up to \$90,000 per medical student per year with revenues obtained directly from government sources and insurance companies (Stoline, 1989: 165). With the government currently paying such a large portion of total health care expenditures, why don't Americans fund a national health plan and allow for the delivery of health care in a more equitable manner?

## RECOMMENDATIONS

The limits on access to health care that are emerging from the present private health delivery system in the U.S. reinforce the fact that when medical care is produced and sold in a market system, the distribution parallels the economic demand of the class structure. Most doctors treat few, if any, Medicaid patients due to inadequate reimbursements. Eighteen percent of Medicaid patients in 1991 were refused care by a physician or a hospital (Irving, 1993). In fact only 6% of all physicians provide care for one-third of all Medicaid patients (Brown, 1984: 64). The basic "needs" of low-income families in the U.S. are frequently left unattended while even the middle class is rebelling against the constant inflationary aspects of the system.

The basic difference in approach is that Canada's health care is considered a social right, whereas in the U.S. health care is treated more like a market commodity (Taylor, 1987: 433) (Gray, 1987: 218). The Canadian health care system has a foundation built on universal coverage, comprehensive benefits, progressive financing, economic efficiency, publicly guided allocation of health resources, cost-saving mechanisms and accountability to consumers. Canada continually provides the quality of health care that satisfies voters.

Employer-mandated insurance is a plan where employers either provide workers and their dependents with a minimum package of health insurance benefits or pay a tax to help fund a new public insurance program. Although I am not fond of this plan because of the competitive disadvantages that many businesses are likely to experience and the consequential losses in the job market, I consider the status-quo in American health care a worse situation. I recommend that Americans push forward to implement a program and not wait forever in pursuit of "the perfect plan."

Under an employer sponsored health plan, the U.S. health care system could conceivably evolve to one where it would be more cost-effective for employers to pay a public insurance tax and secure better medical coverage from a single-payer insurance plan than what could be obtained by purchasing private insurance. In the future, this could very well lead the nation closer to the acceptance of a universal national health insurance by someday eliminating the problematic private medical insurance industry (Pollack, Torda, 1991: 100).

Whatever direction America pursues in health care the constructive way of dealing with inevitable change is to make changes voluntarily before they impose themselves. The earlier that action is taken, the wider the range of choices that will be feasible in shaping progress. ♦

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# The Need for a Balance of Jobs and Housing in the Bay Area

Written by Tom Martens

Edited by Julie Taylor

The imbalance between jobs and housing throughout the Bay Area has increased dramatically during the last few decades. Greater emphasis on job creation rather than housing production has propelled urban sprawl and consequently, environmental pollution. A regionally pooled revenue base or a per capita-based revenue distribution system would lessen the incentive for fiscal zoning and would reward those cities that housed the most people. Lower housing costs and increased mobility of the workforce would enable economic expansion of the Bay Area to continue, while preserving the quality of life and protecting the environment for everyone.

## INTRODUCTION

In the past few decades the Bay Area has grown from a relatively compact metropolitan area, composed of a handful of employment centers supported by housing-rich suburbs, to an expanding, decentralized metropolis. But while jobs have been locating in ever-more-distant suburbs, the necessary housing for workers has not accompanied this movement. The high cost of housing, and sheer lack of it, near job locations pushes workers ever-farther from the core of the Bay Area in search of affordable housing. At the same time, businesses look beyond the core of the region in an attempt to tap the labor pool in these outer locations.

## WHAT DO THE NUMBERS SHOW?

Employment has grown in the Bay Area dramatically since 1960, rising from 1,452,400 jobs in 1960 to an estimated 2,758,170 jobs by 1985, according to the Association of Bay Area Governments, (ABAG), *Projections '90, 1989*. Most of this growth occurred outside of the traditional employment centers of San Francisco and Oakland. In 1960, San Francisco and Alameda counties held 57 percent of the region's jobs within their boundaries. Their share declined to roughly 39 percent of the Bay Area's jobs by 1990 (ABAG).

Santa Clara County experienced the greatest absolute and percentage increases in employment during the last few decades, becoming the regional leader in both jobs and population. The impetus for the South Bay's dramatic growth was the emerging high tech industry of Silicon Valley. As the cities in northern Santa Clara

County sprouted high tech office parks, San Jose to the south responded to the need for housing, becoming the bedroom community for Silicon Valley.

San Jose's role as a bedroom community has been crucial to Silicon Valley's growth. Currently, the northern Santa Clara County cities that comprise Silicon Valley collectively import a net 179,000 workers, for a jobs/housing imbalance greater than San Francisco. San Jose, on the other hand, houses 117,000 more employed residents than it has jobs to sustain. The Association of Bay Area Governments projects, however, that this situation will change in the next two decades. San Jose is predicted to add 128,000 new jobs\* and only 98,000 employed residents by 2010. And with 24 percent of the region's projected job growth between 1990 and 2010, Santa Clara County is expected to have a net in-commute of over 120,000 by 2010 (ABAG, *Projections '92, 1992*).

Southern Alameda County has also served as a bedroom community for Silicon Valley, and for the more urban area of the county near Oakland. In 1985, the southern bayshore portion of the county had 0.78 jobs for every employed resident, while the inland section of the county had only 0.70 jobs for every employed resident (Bay Area Council, 1985). However, ABAG has predicted the county as a whole will see an increase of 208,500 new jobs between 1990 and 2010 - almost 52,000 more than the expected increase in employed

\* Projected/expected growth is the demand for labor - whether met or unmet demand.

residents. Much of this employment growth has been projected for the eastern part of the county, raising the jobs per employed residents ratio well above the 1985 figure. With eastern Alameda also serving as a bedroom community for Silicon Valley and Oakland, new bedroom communities will be needed to accommodate Alameda County's overflow. The Central Valley is a likely location.

Contra Costa County is similar to Alameda County in that areas that were traditionally exporters of labor to larger employment centers, such as from Walnut Creek to Oakland, are expected to see greater increases in jobs than in employed residents. Overall, however, Contra Costa is expected to experience equal absolute growth in jobs and employed residents between 1990 and 2010, due to residential development spreading eastward into the rural portions of the county bordering the Sacramento River Delta. But, just as Alameda County will continue to house overflow Silicon Valley workers, Contra Costa will likely house many of the ever-larger number of people employed in Oakland and the West Bay, pushing some Contra Costa County workers into other locations.

Solano County was viewed until only a few years ago as a likely location for housing the overflow of workers from Contra Costa County. Revised projections by ABAG, however, show that Solano County is expected to see the Bay Area's highest rate of job growth between 1990 and 2010. In fact, the North Bay counties of Napa, Sonoma, and Solano are expected to account for 22 percent of all job growth in the Bay Area during the period. This is double the rate of job growth for these counties during the previous twenty years.

The ratios of new jobs to new employed residents for the three North Bay counties range from 1.0 new job for each new employed resident through 2010 in Solano County, to 1.7 jobs per employed resident in Napa County. Sonoma County's projected ratio for the period is 1.2 jobs per employed resident (ABAG, 1992).

Marin County is expected to see almost 31,000 new jobs between 1990 and 2010. Most will be in the northeastern section of the county. However, with new housing stock to accommodate less than 18,000 new employed residents, this current bedroom community will have to export some of its future housing needs if the southern portion is to remain an exclusive bedroom community for workers in San Francisco and elsewhere.

San Mateo County has traditionally served as a bedroom community for the employment centers located to the north and south, but by 1985, the eastern side of the county, along S.F. Bay, had nearly 90 percent as many jobs as employed residents. And the county is

projected to see over twice as many new jobs as new employed residents between 1990 and 2010. Not only will the Peninsula shed its role as bedroom community for San Francisco and Silicon Valley, it will increasingly draw workers from across the Bay (BAC, 1985).

Finally, the region's traditional center, San Francisco, is projected to grow moderately. Almost 100,000 jobs are expected to be created in the City between 1990 and 2010 - most likely in the South of Market area, an area slated for downtown expansion. Residential growth, however, is not expected to keep up with job expansion. For every three new jobs projected for San Francisco, only one new employed resident will locate in the City (ABAG, 1992).

In seven of the nine Bay Area counties, ABAG projects more jobs will be created than places for the new employees to live. Contra Costa and Solano counties are expected to have equal increases in local jobs and employed residents, but will likely still house many workers from other housing-deficient areas. San Francisco and San Mateo counties are projected to see the most unbalanced growth rates, while Santa Clara County is expected to see the largest absolute deficiency in local labor.

The Bay Area can expect an increase in labor demand of over 1 million jobs between 1990 and 2010. However, new employed residents are only expected to rise by three-quarters as much (ABAG, 1992).

## EFFECTS OF IMBALANCE

An imbalance between jobs and nearby housing for employees creates a chain of events that will negatively affect the economy of the region, as well as physically damage the area along the way.

The most immediate effect of the jobs/housing imbalance is high housing prices within what might be considered acceptable commute distances from employment-rich areas of the region. As labor demand in one location increases, housing demand in the surrounding area will also increase. If increased demand is not met with increased production, prices will rise to reflect current availability.



## Growth in Jobs and Employed Residents 1990 - 2010

<u>County</u>	<u>Net Job Growth</u>	<u>Net Employed Residents</u>	<u>Ratio: Jobs/ Employed Residents<sup>1</sup></u>
Alameda	208,500	156,800	1.3
Contra Costa	137,000	139,200	1.0
Marin	30,900	17,800	1.7
Napa	28,600	17,100	1.7
San Francisco	99,200	32,900	3.0
San Mateo	74,500	36,200	2.1
Santa Clara	244,300	173,300	1.4
Solano	92,300	97,000	1.0
Sonoma	98,300	85,100	1.2
<b>REGION</b>	<b>1,013,600</b>	<b>755,400</b>	<b>1.3</b>

<sup>1</sup> Jobs/employed residents ratio is for projected growth only.

*Source: Association of Bay Area Governments, Projections '92.*

Employees in outer areas of the region do not require salaries as high as those in inner locations because of lower housing costs. However, the availability of employment in outer suburbs lures still more people to these areas, raising housing prices, resulting in the seemingly endless cycle of sprawl. The effects of this are all too obvious: increasing traffic congestion, air pollution, destruction of hillsides and farmland, and aesthetic bleakness. Most disturbing about the current pattern of sprawl in the Bay Area, however, is that in almost all areas of the region, more emphasis is placed on job creation than housing production.

***“The Bay Area can expect an increase in labor demand of over 1 million jobs between 1990 and 2010.”***

Whereas a few Bay Area job centers once exported their housing needs to nearby sub-regions, the only development corridor that is projected to produce more housing than jobs, between 1990 and 2010, is the Highway 4 Corridor in eastern Contra Costa County. However, this future growth corridor is only expected to create a surplus of housing to accommodate 51,000 employed residents - far below the projected deficit of a quarter of million employed residents in the Bay Area by 2010 (ABAG, 1992).

How will this deficiency be met? The Central Valley is one unfortunate possibility. San Joaquin County's population grew by 38 percent in the 1980's, with Tracy,

the city closest to the Bay Area, doubling in population during the period. In addition, two new towns, and possibly a third, will soon begin sprouting in the county.

Whether or not San Joaquin County becomes part of the Bay Area metropolis, the result of the housing imbalance—despite the consequences mentioned above - will likely be unrealized economic growth. ABAG Chief Economist Raymond J. Brady estimated that without enough new housing to meet demand, job creation by the year 2005 could be cut by as much as 150,000 jobs. And, according to Brady: “The real problem is that the jobs most likely to be affected by this reduction are those in the middle-income category.”

ABAG's revised Bay Area growth projections up to 2010, released in 1992, already show some signs of change over unpublished 1990 projections. Forecasted job growth has been scaled back in San Francisco, San Mateo, Santa Clara, and Marin counties. The North Bay counties of Napa, Solano, and Sonoma, as well as Contra Costa County, have all had increases in expected job growth by 2010. Alameda County's projected job growth has remained the same, while the number of projected employed residents has declined - suggesting that the expected job growth may have shifted to the eastern portion of the county where housing growth had been forecast.

As the outer areas of the region experience job growth in the coming decades, they too will see reductions in economic potential due to a shortage of skilled labor, caused by unaffordable housing and impossible commutes.



## CAUSES AND SOLUTIONS

The reason for the Bay Area's unbalanced growth in jobs and housing to support workers is two-fold. First, the nearly one hundred cities and nine counties in the region act as separate units, though they are inter-related parts of a single economic and demographic unit. Second, each of these many jurisdictions has fiscal needs which can be better provided for through commercial/industrial growth.

The combination of Proposition 13's reduction in property tax revenue, and dwindling amounts of state and federal government support, has created a situation where these numerous municipal corporations compete for commercial and industrial development to bring in tax revenue - the fiscalization of land use.

Residential growth is a burden to local agencies because it brings in little tax revenue, yet requires schools, playgrounds, police and fire protection, etc. What little percentage of land a city may devote to residential use is often low-density. Development of this nature is preferable to a municipality because there will be little difference in property tax, since the assessed value of each parcel will be relatively high, yet fewer services will be required by residents. Current residents in a given city also have incentive to push for low-density housing: a perceived threat to their property value by higher density housing.

The State of California has attempted to address the shortage of housing through the Housing Element Act. The Association of Bay Area Governments determines the extent of housing need for each Bay Area city. Each city must submit plans to address the problem to the State Department of Housing and Community Development. Unfortunately, cities are not forced to ensure that plans in housing elements are carried out. A report completed in 1991 by Connerly & Associates for Local Housing Element Assistance Project states: "At best, these plans contained good ideas... At worst, the plans represented unused documents designed to meet the legislature's technical requirements for a housing plan."

To combat the incentive for fiscal zoning policies, where land-use is determined based on the potential revenues generated, either the system of governance in the region, or the method of revenue distribution must be changed, or both.

A regional planning agency with the authority to designate the type and extent of land uses within municipalities could effectively plan for a jobs and housing balance within the Bay Area. Additionally, taxable sales revenues are currently distributed to the cities where the sales occurred, encouraging commercial development. A regionally pooled revenue base could be distributed on some sort of needs basis, lessening the incentive for fiscal zoning, but probably not diminishing it. A per capita-based revenue distribution system, however, would reward those cities that housed the most people. Some form of these systems might be the fairest solution, since those cities with higher population densities would be required to provide more services.

## CONCLUSION

With incentives for housing production, sufficient levels of density could be established to both reduce the price of housing and make transit a convenient option for residents. Lower housing costs for employees and increased mobility of the workforce would enable economic expansion of the Bay Area to continue, while preserving the quality of life and protecting the environment for everyone. ♦♦

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# San Francisco's Changing Industrial Districts

By Larry P. Divito

Edited by Richard A. Vitale

The San Francisco districts of South Park, Rincon Hill, and South Beach lie south of the financial district on the eastern edges of the city. Since the 1850s these districts have evolved to meet the land use needs of the urban economy and the city housing market. Today, major changes are underway that correspond with the decreased need for industrial space and continued demand for housing in San Francisco.

## INTRODUCTION

San Francisco's South Park is a cozy district near Market Street that is well-defined by one square city block. Traffic circles one way around a long, oval avenue that surrounds the South Park district which includes a beautiful public greenspace in the center of the community. Today, this area as well as the nearby Rincon Hill and South Beach environs are in the midst of change. Modernization of land use is transforming the area's economic status and increasing its housing inventory. After examining specific land uses and the economic changes in these three areas, as well as the impacts that these shifts are having on the local living and working environments, I will forecast what the years ahead may bring as modifications continue. Before exploring this urban landscape as it now exists, a look at its history is relevant.

## HISTORICAL BACKGROUND

In 1852, capitalist George Gordon began purchasing lots that would eventually make up South Park. His development plan, initiated in 1854, was the first example of city planning in San Francisco. The plan called for a park with ornamental grounds in the center, and private dwellings on the surrounding lots. Fire prevention was a prime concern in this era, and South Park houses were constructed of brick or stone, not wood. The oval garden, enclosed by an ornamental iron railing measuring 75 X 550 feet, was attractively landscaped with trees, shrubs, fuchsias and geraniums (Shumate, 1988: 31). Like gated fortresses that exist in many contemporary developments, the garden of South Park was private with an iron gate entrance exclusively for residents.

As Gordon and others cultivated the South Park and Rincon Hill neighborhoods through the 1860s, it became an early form of suburbia. The elite classes of San Francisco began to settle there in order to distance themselves from the fire-prone buildings and rowdy atmosphere of the downtown area. South Park's attributes such as the unique housing tracts, appealing weather, and convenient downtown location, all combined to bring California its pioneer commuter culture and exclusive residential environment.

The emergence of cable cars opened up areas in San Francisco for residential development. New transportation technology produced cable cars that were able to climb hills that horse-drawn carriages could not, causing land use patterns to change. Both the cable cars and the desire of affluent San Francisco residents to isolate themselves from downtown led to increased migration within the city. As Rincon Hill and South Park became less insulated from downtown, the elite classes sought alternative surroundings (Shumate, 1988: 10). Beginning in 1869, Nob Hill and Pacific Heights became the new neighborhoods of choice (Delehanty, 1991: 27-28).

From the time the cable car was introduced until 1906, the housing in South Park went through a filtering process, becoming home to the working classes who labored at the nearby docks and industries south of Market Street. The oval greenspace became a public park in 1897 and the housing changed to densely populated tenements. The earthquake and fire of 1906 destroyed South Park and Rincon Hill. After 1910, South Park became a unique mixture of industrial and residential structures surrounding the parkspace. Rincon Hill was rebuilt as an industrial and warehouse

zone, although a large section of the hill was cut down and used for the approach ramp of the San Francisco-Oakland Bay Bridge, during the 1930s (Delehanty, 1991: 33). Until recently, South Park and Rincon Hill flourished as centers of manufacturing and distribution.

## **SOUTH PARK'S ATMOSPHERE**

Today, the demand for residential housing in South Park appears to be undergoing a resurgence. The parkspace adds many amenities not usually found in downtown districts, such as picnic areas, a children's playground, and plenty of park benches. Entering South Park's oval avenue in late fall offers a unique experience. Leaving the brick and concrete landscape of the industrial and commercial environment in the area, the autumnal shades of deciduous trees within South Park seem to be the only indicator of seasonal change in the entire South of Market region. On a warm and sunny weekday in the winter, South Park is often teeming with activity as the urban public space is enjoyed by many people.

A walk around South Park reveals a diverse mixture of building use ranging from architectural and engineering firms to a motorcycle repair shop. One section includes a photography studio, a designer dress shop, and a deli/burrito eatery. The South Park Cafe, a packing company, and various distribution warehouses are other examples of commercial activity.

*Today, the demand for residential housing in South Park appears to be undergoing a resurgence.*

Some of the units within South Park are ripe for gentrification, from an abandoned structure with a burned out interior to others that simply need aesthetic and maintenance improvements. Others have already been restored and exist in stark contrast with industrial buildings. A large Edwardian style apartment building rebuilt soon after the 1906 earthquake is one example of the many historic South Park residences. It is located across the street from Ristorante Ecco which has also added charm to the area.

## **THE NEED FOR CHANGE**

The economic structure of the city changed the South of Market area, with an increase of jobs in service industries. The decline of manufacturing and industrial jobs over the past few decades has created more of a demand for office space thereby changing land use patterns in the entire area.

Interspersed with commercial land uses in South Park is an interesting mix of housing. At the top of the oval near Second Street, Lofts Unlimited is currently converting industrial space into residential units to meet the growing need for housing. Also, two single-room-occupancy hotels are located on the same block. The Oriental Warehouse at First and Brannan Streets, built in 1868, was once considered the Ellis Island of the West, but has outlived its usefulness as industrial space and is being converted into a residential unit. Just outside of South Park, the Clocktower buildings that once housed lithograph plants are now upscale lofts classified as live/work space. Nearby, a warehouse dating from 1916 has become a condominium complex. These new living accommodations are an improvement to this area, adding to the housing stock while not displacing any existing residents.

The previously exclusive industrial districts of South Beach and Rincon Hill, which lie east of South Park and face the waterfront, have been rezoned to encourage residential development and are now under the guidance of the city's Redevelopment Agency. The renaissance of the entire South Beach area began in the late 1980s, when a 700 berth marina was installed in a refurbished South Beach Harbor and nearly 2,000 apartments were built along the Embarcadero. The South Beach Marina Apartments, Bayside Village, and the Delancey Street drug rehabilitation center spearheaded the development (Evenson, 1991: B1). The most recent addition, Steamboat Point, adds a low-income housing complex with over 100 units built by the Bridge Housing Corporation, a non-profit developer.

## **REASONS FOR SOUTH PARK GENTRIFICATION**

Gentrification should be recognized as a diverse and chaotic concept (Beauregard, 1986: 40). In the years ahead, the small stock of housing in and around South Park will likely be subject to a different type of gentrification than what has been common in the past. These San Francisco districts have based changes on the decrease in demand for industrial space, although a "gentrified" community is often associated with a residential neighborhood that has declined in value but still maintains an appeal to attract investment. Perhaps the most important source of housing for newcomers to this area will be old warehouses converted into lofts. Industrial space originally created for work that no longer exists can provide a much needed boost for the city's housing market, which is generally considered high in price and short in supply.

The preconditions for gentrification explain some of the reasons South Park, Rincon Hill, and South Beach are undergoing this transition. Brian L. Berry states that a neighborhood needs definable boundaries to give its restructuring process focus and scope (Berry, 1985: 80). South Park has a physical layout which distinguishes itself from the rest of the city, while the region as a whole has the Bay Bridge to the north and the waterfront to the east to serve as boundaries. Berry also mentions that the housing stock must have the potential for rehabilitation, part of which is derived from the existence of neighborhood amenities. I believe that the renovations, conversions, and new construction that are continuing in this region during the current recessionary period are good indications of the potential for growth in the area during better economic conditions.



According to Berry, an area greatly benefits from gentrification if it has some special historical importance to warrant a significant level of investment. This area of San Francisco is rich in history. Even old cobblestones and railroad tracks, the infrastructure of the past, can be spotted under worn pavement. Successful neighborhood improvement in urban areas also relies upon the proximity to the central business district. South Park is within walking distance to the core of the city's financial district and extremely close to many offices located south of Market Street. Also, the weather is a factor that may increase the demand for space in this area. Sheltered from the wind and fog by western hills and skyscrapers to the north, this flat region near the eastern waterfront has about as mild a climate as can be found in San Francisco. While formulas for gentrification can't always be applied perfectly to a specific area, I do feel that South Park, Rincon Hill, and South Beach are experiencing changes which correspond to the ideas expressed by Berry.

The restructuring of South Park appears to be the result of many economic factors. The changes are trends familiar to corporate headquarter cities such as San Francisco, which tend to be growth areas for professional and managerial jobs (Feagin, 1990: 138). The growth of jobs in ancillary services in central cities has dramatically increased the number of workers attracted to residing in a neighborhood near the downtown area (Bennett, 1990: 18). A demand must have existed for developers to seek to increase the supply of housing in this area. A basic explanation for the demand that is evident for central city housing is the growth in high-skilled, high-wage service jobs, while industrial jobs disappear. Newcomers locating in the area include highly educated, single adults without children and are likely to be employed in government or service sector positions (Berry, 1985: 84).

## LAND USE AND THE NEW URBAN ECONOMY

The economy of this area today is anchored by light industry and office services. The old industries are mixing with the new service sector to provide some interesting contrasts in land use. For instance, a champagne and jazz bar sits around the corner from a salami warehouse. A health club occupies the first floor of an office building. Multimedia Gulch, a young industry that blends computer technology with communications has renovated warehouses throughout a ten square block area. Further expansion in this new consumer market is expected this decade (Schwartz, 1993: 42). The success of this industry can greatly enhance the economic vitality of the region around South Park, possibly more so if the area becomes the national center for research and development for this growing enterprise.

### *Gentrification should be recognized as a diverse and chaotic concept.*

South Park is three blocks from the heart of Yerba Buena Center which is scheduled to be completed sometime this decade. In addition to the increase in office space, the cultural amenities provided at Yerba Buena will help to increase the demand for housing in South Park, Rincon Hill, and South Beach. A center for the arts (visual & theater), the new Museum of Modern Art, and the recreational space of Yerba Buena Gardens makes this entire area a more desirable place to live, one that will appeal to professionals during the years ahead.



## FUTURE DIRECTION FOR DEVELOPMENT

A look at the broader picture of land use, economic development, and residential environment of South Park, Rincon Hill, and South Beach offers a glimpse into the future of eastern San Francisco. South of Market Street, east of Fourth Street, and south through the Mission Bay development, the eastern edge of the city along the waterfront has the potential to blend into a cohesive unit of urban progress. Scheduled for completion in 20 years, Mission Bay, San Francisco's massive urban development project, will have over 8,000 housing units, close to five million square feet of office space, and 68 acres of public parks and open space (Porter, 1992: 29).

Since the Loma Prieta earthquake of 1989, transportation has been a problem throughout eastern San Francisco due to closed and demolished freeways. Improving traffic flow along the Embarcadero waterfront and expanding public transit with new streetcar routes would be tremendous improvements for these areas. Both the Embarcadero Surface Roadway Reconstruction Project and the Muni Metro Extension Project will help to link the downtown core with the areas South of Market and Mission Bay.

As the housing supply grows, the need for city services such as police, fire, public works, and the municipal railway, will have to be expanded. Everyone in the area must contribute to attaining a level of economic vitality and growth that would provide an adequate contribution to San Francisco's tax base.

Major changes have taken place in San Francisco's old industrial districts, leading to what I feel are improved urban districts which add to the quality of life for residents. If city leaders make thoughtful decisions and adjust to ongoing modifications along the eastern waterfront and in the adjacent neighborhoods, this sector can provide the people of San Francisco with the best of urban culture. The arts, waterfront parks and recreational space, diversified opportunities for employment, and affordable housing united by accessible public transit can change the face of San Francisco into the next century. ♦♦

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