

Hedging His Bets: Why Nixon Killed HUD's Desegregation Efforts

Chris Bonastia

Forthcoming, *Social Science History*

In recent years, a number of scholars have set out to explain the development of civil rights policies under President Richard Nixon. This topic has drawn attention because the idiosyncratic zigs and zags of Nixon-era civil rights policies are a rich, complex story to unravel, and because much of the “action” in civil rights policymaking occurred at this time. While most prominent civil rights laws were passed during the Johnson Administration (in the Civil Rights Acts of 1964 and 1968 and the Voting Rights Act of 1965), the specific policies that would carry out the aims of these laws took form under Nixon. It was under Nixon that unprecedented progress in southern school desegregation took place, and that affirmative action in employment took hold, beginning with the presidentially approved “Philadelphia Plan” to integrate the construction trades.¹

At several junctures during the first Nixon Administration, HUD appeared to be building the momentum to help forge elementary changes in segregated residential patterns by “opening the suburbs” to groups historically excluded for racial or economic reasons. This era was marked by new legislative protections against discrimination in housing, unprecedented federal involvement in housing construction, and frequent judicial backing for the actions of civil rights agencies. It was not until Nixon took the drastic step of freezing all federal housing funds in January 1973 that the door shut completely on the possibility of substantial desegregation. Historical analyses of federal civil rights policies in housing are relatively rare, perhaps because of the bias in scholarship toward studying “successful” cases (Amenta, Bonastia and Caren 2001). Those that do often lack

an analytical framework that situates housing policy debates within a larger political context.² One of the aims of this paper is to address this gap in the social science literature.

HUD's inability to establish strong, pro-integrative policies at this time reverberates in the present-day United States, where residential segregation is perpetually neglected as a policy issue. This political inattention exists despite considerable scholarship on the processes and degree of housing segregation,³ and broad consensus about the social impacts of segregation. For example, Lawrence Bobo deems residential segregation the "structural lynchpin of contemporary racial inequality" (Ellison and Martin 1999: 263). Racially biased governmental policies, and the examples they set for the private sector, were key factors in the hardening of residential segregation.

Most significantly, the Federal Housing Administration—created in 1934 to insure long-term mortgage loans made by private lenders for home construction and sale—reinforced residential segregation by refusing to insure properties in multi-racial neighborhoods, and homes for African-Americans and other non-whites in white neighborhoods (or, in many cases, any neighborhoods at all). The reduced down payments and extended repayment periods enabled by FHA insurance contributed mightily to the exodus of whites from the city to the suburbs. With the passage of the G.I. Bill in 1944, the Veterans' Administration provided guarantees for financing homes, following FHA policies of maintaining neighborhood segregation. By 1956, over 40 percent of all mortgages on owner-occupied, single-unit, non-farm properties were either insured by FHA or guaranteed by the VA (McEntire 1960).

FHA's 1938 *Underwriting Manual* stated that "if a neighborhood is to retain stability, it is necessary that properties shall continue to be occupied by the same

social and racial groups.” The inclusion of restrictive covenants preventing non-white occupancy “became almost a prerequisite of FHA mortgage insurance” (USCCR 1961: 16; see also Gelfand 1975; Jackson 1985). It was not until the 1950s that FHA, prodded by the Supreme Court’s *Shelley v. Kraemer* (1948) decision declaring restrictive covenants to be unenforceable, began to take halting steps away from its segregationist policies, though it hardly encouraged integration after that. In similar fashion, federally funded public housing authorities almost uniformly chose sites and tenants in a manner that reinforced rather than challenged racial segregation (Weaver 1948). As Jackson (1985: 217) describes it: “The lasting damage done by the national government was that it put its seal of approval on ethnic and racial discrimination and developed policies which had the result of the practical abandonment of older, industrial cities. More seriously, Washington actions were later picked up by private interests...The financial community saw blighted neighborhoods as physical evidence of the melting-pot mistake.”

Residential segregation has exacerbated inequality between blacks and whites, adversely impacting the lives of African-Americans in largely unseen ways. Succinctly stated, as a result of residential segregation, “poor blacks live under unrivaled conditions of poverty and affluent blacks live in neighborhoods that are far less advantageous than those experienced by the middle class of other groups” (Massey and Denton 1993: 9). Oliver and Shapiro (1995) argue that differences in housing prospects are the key to understanding racial wealth disparities and, in turn, disparities in the transmission of class status (see also Conley 1999). Black socioeconomic characteristics, housing preferences and degree of knowledge of white housing markets do not sufficiently explain the persistence of black residential segregation (Massey and Denton 1993).

Segregation levels for African-Americans have declined only modestly over the last few decades (Massey and Denton 1993; Farley and Frey 1994; Farley 1996; Denton and Alba 1998).⁴

The Nixon Administration was a pivotal period in the development of federal responses to housing discrimination, as increased public investment in housing and a recently passed fair housing law provided new tools to attack residential segregation. This paper explains why President Nixon elected to dismantle residential integration efforts while allowing integration initiatives in employment and education to proceed with some force. I offer a twofold explanation for this puzzle. First, in contrast to existing work arguing that Nixon sought to maximize political payoffs in his civil rights policies, this paper contends that Nixon's strategies are more accurately characterized as blame avoidance. That is, whenever possible, Nixon attempted to shift responsibility for controversial civil rights decisions onto other political actors. This first argument is clarified by the second primary theoretical point, which argues that institutional vulnerability increases the likelihood of presidential attacks. In the case examined here, HUD's distinctive institutional weakness—shaped by its conflicting missions and unwieldy structure, and laid bare by scandals in the Federal Housing Administration—gave the President a political opening that he did not have in the areas of education and employment.

By considering civil rights initiatives in an area mostly unexplored by scholars of social policy, this paper provides fresh insights into the factors that guided Richard Nixon's domestic policy decisions, and into his varying reactions to the civil rights bureaucracies he struggled to control. The evidence presented here draws upon primary sources from the Nixon Presidential Materials and HUD that have not been assessed in earlier research on federal desegregation efforts.

This paper proceeds with a review of work on blame avoidance and the politics of government bureaucracies, proposing conceptual linkages between these areas of inquiry. Then it examines the development of fair housing policies during the Nixon Administration, highlighting the evolving relationship between HUD and the White House. In its final section, this paper explains how the argument outlined above provides a more compelling explanation of President Nixon's civil rights policies than prior accounts.

Blame Avoidance and Institutional Vulnerability

It is often assumed that policymakers, whenever possible, will act and vote in an attempt to claim credit with constituents and clientele groups that benefit from these actions (Fiorina 1977; Mayhew 1974). Thus, in the case examined here, one would expect the Nixon White House to battle civil rights agencies aggressively and explicitly, making clear that the relaxation of enforcement efforts is a "gift" to its political supporters. A competing expectation follows from Weaver's (1986: 372) assertion that, "when push comes to shove, most officeholders seek above all not to maximize the credit they receive but to minimize blame." This objective entails a subtler strategy, in which the White House balances its attempts to receive credit from its conservative supporters with occasional efforts to placate civil rights supporters and, more importantly, convey to observers that it is constrained by factors beyond its control: courts, the Congress, and so on. Consequently, less-than-optimal policy outcomes can be pinned upon other political actors. This blame avoidance strategy seems particularly useful for complex, contentious issues where ideal outcomes are hard to specify and even harder to realize. Such an approach would also accord with studies revealing that constituencies respond more strongly to losses than they do

to gains (Bloom and Price 1975; Kernell 1977; Wright 1977). In the two-party system of the United States, taking ambiguous positions, especially on divisive issues, is typically thought to represent the best strategy for electoral candidates.

For officeholders, however, the strategy of blame avoidance does not always entail “ambiguity and inaction” (Weaver 1986: 376). This point rings especially loudly when one considers presidential decision-making regarding government agencies. In many cases, the president cannot escape blame for the actions of executive agencies merely by claiming unawareness of agency actions, or inability to stop them. When advisers or agencies attract criticism, they may serve as “lightning rods” that deflect blame from the president himself. Alternatively, they may become a political liability to the president (as occurred with Ronald Reagan’s interior secretary, James Watt) (Ellis 1994).

Administrative agencies may have goals that conflict with White House objectives. The president may attempt to rid an agency of “troublesome” employees by firing them or forcing their resignations (see, for example, Panetta and Gall 1971). Despite this possibility, many regulatory agencies function with significant autonomy from congressional or executive direction (Wilson 1980). Even when the White House does try to “tidy up these relationships and bring the regulatory agencies under close supervision,...the history of these attempts is one of dashed hopes and wasted energies” (Wilson 1980: 391). The difficulty of controlling agencies may be magnified when agency initiatives are backed (as they often have been in civil rights) by the judiciary (Melnick 1994).

Oftentimes, the President is unaware what individual agencies are doing, so long as they do nothing newsworthy enough to demand his attention or intervention (Derthick 1979). Presumably, the White House will devote attention to agencies whose actions are likely to accrue political blame to the

Administration. But given the difficulty with which agency actions can be brought into line with White House desires, the President will choose which battles to fight based on his perceived odds of winning, as it is a clear political disaster to try publicly and unsuccessfully to redirect agency actions. Thus, to understand the political calculus involved in deciding which agency (or agencies) to take on, it is necessary to examine the characteristics of the agencies themselves.

The ability of an agency to reach its policy objectives, even if they contradict those of the White House, is shaped largely by the characteristics of the “institutional home” for these policy goals (Bonastia 2000). The strength of an institutional home is determined most importantly by an agency’s structure and mission(s). An advantaged institutional home will increase the odds of policy success—as measured by the degree to which agency goals as understood by employees are fulfilled—while a disadvantaged home will decrease these odds. A strong institutional home is one where the mission in question is viewed throughout the agency as primary, and other agency missions do not conflict with the mission in question. With regard to agency structure, a strong institutional home will not house numerous other programs that overlap, or that have a tendency toward mismanagement or an unfavorable policy legacy.

In contrast, a disadvantaged home is one where the mission in question is secondary and may conflict with other missions, and the agency encompasses other programs with a tendency toward mismanagement or a policy legacy that contradicts the mission in question (on the importance of policy legacies, see, e.g., Weir 1992; Pierson 1993, 1994; Skocpol 1992). Multiple missions are likely to spawn competing agency cultures, which may result in inefficiency and ineffectiveness. “Organizations in which two or more cultures struggle for

supremacy will,” Wilson (1989: 101) observes, “experience serious conflict as defenders of one seek to dominate representatives of the others.”

For the purposes of this paper, the importance of the institutional home for a policy objective rests in its relation to political vulnerability. A disadvantaged institutional home provides distinct avenues of attack for a president concerned with blame avoidance. In a contentious policy area, a president intent on retrenchment risks a loss of legitimacy, even if the policies in question are unpopular (Glazer 1987; Pierson 1994). Supporters of the policy will ensure that any retrenchment efforts are embroiled in controversy. But when the institutional home in question is weak, opportunities for presidential obfuscation abound.⁵ The more ambiguous presidential action is, the easier it is to avoid blame for outcomes viewed by particular constituencies as undesirable.

One means of achieving this presidential objective is to weaken or delegitimize the agency’s pursuit of other missions, thus undermining the targeted mission indirectly. Multiple-mission agencies with complex, unwieldy structures are also more vulnerable to scandals or corruption, which can make gutting of the agency appear principled and non-ideological. Obfuscation as a means of civil rights retrenchment becomes considerably more difficult when the agency under attack is charged solely with policing discrimination (as in employment), or whose civil rights missions are clearly distinguished from its other missions (as in school desegregation). Having outlined the theoretical parameters of my argument, I turn to an examination of HUD’s efforts to implement residential desegregation policies during the Nixon era, and the response of the White House to these actions.

An Ambitious HUD Gets to Work

Title VIII of the 1968 Civil Rights Act prohibits refusing to sell, rent to, negotiate or deal with a person based on race, color, national origin or (as amended in 1974) sex; denying housing is available when it is; discriminating in terms of the conditions for buying or renting; and advertisements indicating racial preferences.⁶ It requires HUD and other government agencies involved in housing to act “affirmatively” to further fair housing goals. A compromise amendment to the fair housing bill curtailed HUD’s authority; under the final legislation, HUD was no longer granted authority to hold hearings, issue complaints, or publish cease and desist orders. Penalties for violations of the act were reduced as well.⁷

The implementation of the Fair Housing Act was shaped significantly by another law, the Housing and Urban Development Act of 1968, which created several housing programs with the potential to aid economic and racial desegregation efforts. The Section 235 program subsidized interest payments for homebuyers by paying all mortgage interest above one percent. Section 236 gave similar breaks on interest rates to cooperative, nonprofit, or limited profit private developers building multi-unit rental or cooperative dwellings; these developers were then required to offer a specified number of apartments to lower-income tenants, who would pay no more than 25 percent of their income toward rent. By targeting families with higher incomes than those in public housing, the two programs expanded the potential market for subsidized housing in the suburbs. Section 235 and 236 units quickly represented the majority of subsidized housing in the U.S. (Metcalf 1988; Danielson 1976). In 1967, subsidized housing accounted for 6.9 percent of all housing starts; three years later, that share jumped to 29.3 percent (HUD 1973). The increased federal investment in housing enhanced the agency’s power to invoke Title VI of the Civil Rights Act of 1964,

which provides authority to cut off funding to federal contractors shown to be discriminating.

The 1968 legislation set an ambitious national housing goal to build or rehabilitate 26 million housing units between 1969 and 1978. Six million units were to be constructed or rehabilitated with federal assistance, a huge increase over previous levels. The remaining 20 million units were to be created without federal aid. This was a wildly optimistic goal, as the industry had never built as many as two million units in a single year, and had averaged less than 1.5 million new units in the prior decade. A mere 634,000 units had been built with federal assistance in the previous 10 years (Lilley 1970a).

Despite the relatively weak enforcement provisions of the new law, the agency faced its new civil rights obligations—as well as its ambitious production responsibilities—with considerable enthusiasm. This eagerness began at the top with new HUD Secretary George Romney. The moderate-to-liberal Republican served three terms as the governor of Michigan (elected in 1962, 1964 and 1966), and briefly sought the GOP presidential nomination in 1968. He had been considered an early front-runner, but suffered irrevocable political damage after claiming in August 1967 that American government officials in Vietnam had “brainwashed” him into supporting U.S. involvement.⁸

Romney had very little background in housing, especially compared to his predecessor, Robert Weaver. He was, however, proud of his civil rights credentials, noting in congressional testimony that he had publicly opposed segregated war housing and public housing in the 1940s, and had urged delegates at the 1964 Republican National Convention to strengthen the party’s civil rights platform.⁹ When Nixon introduced his new cabinet in December 1968, he applauded Romney for his “tremendous missionary zeal about the need to do

something about the problems of cities” (New York Times 1968). One congressional staffer later commented that “when it comes to proselytizing, no one is better at it than George Romney. He’s a super-salesman and he’s the perfect kind of guy to be selling something as controversial as [suburban integration]—even if you disagree with what George Romney might be telling you, you would never think that he was anything other than a solid all-America type. The message might strike some listener as radical but Romney himself never comes over as a radical” (Lilley 1970b: 2263).¹⁰

In contrast to the backtracking that would ensue midway through Nixon’s first term, the goal of residential desegregation was widely shared by members of the Administration early on. Indeed, this belief in the need for residential desegregation had entered into the mainstream of political thought. The Kerner Commission, a panel filled with political moderates by President Johnson, opined in its 1967 report that “federal housing programs must be given a new thrust aimed at overcoming the prevailing patterns of racial segregation...A single society cannot be achieved as long as this cornerstone of segregation stands” (National Advisory Commission on Civil Disorders 1968: 474-5). Respected private-sector experts such as Anthony Downs testified on Capitol Hill that suburban integration efforts could take place in a measured fashion that respected the views and desires of both whites in the suburbs and less affluent blacks who wished to escape harsh inner-city living conditions.¹¹

This policy objective had a particularly strong backer in Presidential Counselor Daniel Patrick Moynihan, who told an interviewer: “I’m a dispersal man. To the extent that a society has problems due to concentrations of race, that society would minimize those problems by spreading them out” (Lilley 1970b:

2253). The emphasis on deconcentrating the poor, coupled with the shortage of land in central cities, made suburban areas the focus of integration efforts.

In July 1970, the White House let Romney use the Camp David presidential retreat to convene a two-day planning session on suburban integration, and acceded to Romney's wishes by demanding the resignation of HUD General Counsel Sherman Unger, who had clashed with HUD civil rights chief Samuel Simmons over suburban integration efforts (Phillips 1971). Despite widespread agreement within the White House on the broad objectives of residential desegregation, issues of implementation presented political problems for Richard Nixon, who risked alienating white suburban supporters already angry with school busing initiatives.

Romney's enthusiasm did not blind him to the knotty problems he faced in heading a bureaucracy known as one of Washington's most lethargic. The secretary's initial evaluation of the agency, prepared for President Nixon, stressed that the department's creation from formerly independent agencies had resulted in "a marked tendency to organize along lines relating more to historical status and/or the administration of particular statutory programs (such as public housing, urban renewal, FHA, etc.) than to a realistic appraisal of Departmental functions and objectives." He added that many programs appear "duplicative," noting that "there are at least seven different major programs involving public assistance for housing families of low income."¹² Under Romney, the agency seemed to be continually reorganizing or devising new reorganization plans.

Moreover, HUD's two new major responsibilities—affirmatively promoting fair housing while making large dents in the 10-year goal of six million federally subsidized housing units—were a potentially difficult "fit." On the one hand, the sizable new allocations for housing production could work as incentives for localities or other interested parties to act "pro-integratively." On the other hand,

agency employees desperately trying to stimulate housing production might themselves have little incentive to keep civil rights goals in mind. Because HUD had numerous missions, a conscious effort would be needed to make the agency a strong institutional home for civil rights, where the responsibility to police discrimination was considered one of its central purposes.

In trying to fulfill the mandates of housing production and anti-discrimination, Romney began to press suburban localities to accept subsidized housing or risk loss of federal aid in other areas. HUD's main financial leverage in encouraging desegregation came via five primary programs: (1) Urban renewal, used mainly by cities and older suburbs, running at \$1.4 billion annually in 1971; (2) model cities, a \$725 million per year program operating in all major cities but Houston; (3) a range of housing subsidy programs (including Section 235 and 236), with federal spending around \$2 billion; (4) water and sewer grants, a \$700 million program in which many suburban communities were anxious to take part; and (5) the open space program, running at around \$100 million and also appealing to many suburbs (Lilley 1971a). Because neither “fair housing” nor “affirmative action” are defined in the Civil Rights Act of 1968, opinions ranged broadly about HUD’s responsibilities under the law, and the tools it could use to carry them out.

Public Relations Fiasco in Warren, Michigan

Almost immediately after Romney took office, the agency began formulating its strategy for increasing racial and economic integration. When HUD’s “Open Communities” program began in 1969, the media paid little attention, despite some bold public pronouncements from Romney. In a typical statement, the HUD Secretary insisted that “the most explosive threat to our nation is the confrontation between the poor and the minority groups who are

concentrated in the central cities, and the middle income and affluent who live in the surrounding and separate communities. This confrontation is divisive. It is explosive. It must be resolved.”¹³

Early on, the agency cut off the funding of several jurisdictions that refused to accept subsidized housing. Stoughton, Massachusetts, a suburb of Boston, approved a housing project despite local objections after HUD held up the town's water and sewer grant application. The agency also withheld a \$1.4 million sewer grant from Baltimore County when it refused to accept subsidized housing. After the Toledo, Ohio, city council canceled three public housing sites located outside of the ghetto, HUD cut off \$15 million of the city's urban renewal, open space, and water and sewer funds (Lilley 1970b; Danielson 1976).

The agency was flexing its muscles, and seeing some positive results. This would not be the case in the working-class Detroit suburb of Warren, Michigan. Of its 180,000 residents, Warren was home to 28 minority families, only six of whom lived outside a military reservation in town. With a labor force that was nearly one-third black, Warren looked to HUD like a community that should be pried open. The agency should have known that town residents would not be ready converts to the “open community” ideal. When a black man moved in with his white wife and their young daughter in 1967, agitated residents burned crosses on their lawn, threw rocks through their windows, and shouted obscenities as they passed the family’s home (McDonald 1970b).

Warren had received an initial federal grant of \$1.3 million to rehabilitate aging sections of the community; in exchange, it agreed to accept 100 units of low-income housing. When town officials went to collect their second installment of \$2.8 million in May 1970, HUD’s Chicago office informed the town that it must first alter housing policies that discriminated against blacks. After the two sides

failed to agree on measures that would satisfy this requirement, Warren officials traveled to Washington to meet with Romney and Undersecretary Richard Van Dusen. Romney tried to be conciliatory, but turned confrontational when Mayor Bates insisted that Warren was “an open city” free of racial problems. “Mr. Mayor, you do have a problem or you would not be here,” Romney insisted, banging his hand on the conference table. Bates told Romney that the town had spent \$75,000 to protect the racially mixed couple’s right to live in Warren peacefully. “I was Governor of Michigan when the Bailey family moved in,” Romney reminded him, “and I had to send the state police in there to protect them because the local officials would not fulfill their responsibilities” (McDonald 1970c: 6A).

Following the meeting, the Warren city council agreed to take several, largely innocuous integration measures. This might have been the end of the story, had it not been for a series in the *Detroit News* that began with the front-page banner headline: “U.S. Picks Warren as Prime Target in Move to Integrate All Suburbs” (McDonald 1970a: 1A). Warren Mayor Ted Bates, who later recalled that town residents “were about to secede from the Union,” threatened to renege on the city’s agreement with HUD, saying he would not “tolerate Warren being used as a guinea pig for integration experiments” (Reichley 1970: 135).

Attempting to quell the uproar caused by the stories, Romney went to Warren in late July to meet with representatives of that town and 39 other suburbs. In front of a testy crowd, Romney explained that he opposed “forced integration,” but favored “affirmative action” by the community as a condition of receiving federal urban renewal grants (McDonald and Schuster 1970). If tensions ran high inside the meeting, they were worse outside, where 300 to 400 angry demonstrators jeered and even pounded the car of their former Governor as he left.

Dearborn's segregationist mayor, Orville Hubbard, was cheered enthusiastically (Mossberg 1970; Wowk 1970).

The agency subsequently proposed a dozen steps that Warren could take to show a good-faith effort in open housing. This was later cut to five steps, and then to two mainly symbolic ones: passage of an open housing ordinance and appointment of a human relations commission. Warren residents eventually voted to turn down the \$10 million in proposed renewal funds rather than making such an effort (Flint 1970; New York Times 1970).

The White House Intervenes

The Warren incident drew the attention of the White House, which insisted that all federal agencies suspend pro-residential integration policies until the Administration had settled on a uniform policy. HUD stopped withholding funds that were already allocated, instead denying applications from parties that showed evidence of discrimination. The White House was seriously mulling Romney's ouster. Chief of Staff H.R. Haldeman (1994: 210-1) wrote in a November 1970 diary entry that "...George won't leave quickly, will have to be fired. So we have to set him up on the integrated housing issue and fire him on that basis to be sure we get the credit." Rumors also floated that Under Secretary Richard Van Dusen, a big backer of suburban integration efforts, would be asked to resign, as had occurred with Leon Panetta in HEW's Office of Civil Rights (Wall Street Journal 1971).

By this point, however, the White House realized that whatever "credit" might accrue would be accompanied by substantial "blame." In highlighting the political dangers that a President faces in attacking civil rights bureaucracies, Glazer (1987: 212) explains that "when a civil rights official resigns in protest

against the Executive—this happened a number of times during the first Nixon Administration—the major news media uniformly handle it as a case of noble and unselfish men and women truly committed to justice committing an act of self-sacrifice against a politically minded Executive seeking to sell out the blacks and the minorities to gain the support of the most backward and reactionary elements.” Romney and Van Dusen stayed on, and HUD civil rights staffers planned an all-out battle to attack suburban segregation that would take effect after the November 1970 midterm elections.

Tensions escalated between the White House and HUD. Assistant Secretary Eugene A. Gullledge told a reporter that agency staffers could not tolerate constant litmus tests, in which the White House tells the agency: “Now if there’s too much flack out there, don’t do it.” Gullledge wondered: “How much flack is too much?” (Karmin 1970). Occasionally, Romney was unable to control his notorious temper when trying to address the political concerns of the White House. Told by Attorney General John Mitchell that he should resign if he could not follow the Administration’s housing policies, the HUD secretary retorted: “What the hell is the Administration policy? It changes from day to day and hour to hour” (Herbers 1970: 1).

Finally, in June 1971, the White House released Nixon’s tepid and ambiguous, 8,000-word “Statement of Equal Housing Opportunity.” “By ‘equal housing opportunity,’” Nixon said, “I mean the achievement of a condition in which individuals of similar income levels in the same housing market area have a like range of housing choices available to them regardless of their race, color, religion or national origin.” The President interpreted the “affirmative action” mandate of the 1968 Civil Rights Act to mean that housing officials should, in their evaluation of applications for aid, consider the extent to which the proposed project

would open up new, nonsegregated housing opportunities; however, the impact on residential segregation would be considered along with a number of other factors, and a project that would increase or maintain segregation would not necessarily be denied aid.¹⁴

In characteristic fashion, the Nixon statement eluded easy interpretation, which allowed him to avoid some potential blame from conservatives who felt he was caving into civil rights supporters, and vice versa. The President pounded home his assertion that federal authority was limited in the economic and racial integration of housing, and expressed sympathy for those communities fearing that subsidized housing would bring with it lowered property values and “a contagion of crime, violence [and] drugs...” At other points in the statement, the President seemed to support an “effects” standard similar to that holding sway in determinations of employment discrimination: “We will not seek to impose economic integration upon an existing local jurisdiction: at the same time, we will not countenance any use of economic measures as a subterfuge for racial discrimination...If the effect of the action is to exclude Americans from equal housing opportunity on the basis of their race, religion, or ethnic background, we will vigorously oppose it by whatever means are most appropriate—regardless of the rationale which may have cloaked the discriminatory act.”¹⁵ At a follow-up press conference, Attorney General Mitchell clarified that the federal government would act only in cases where it could uncover “actual statements and actual actions” that revealed racially discriminatory intent by the governmental body in question.¹⁶ Romney, who had reportedly argued for a much more forceful presidential statement, publicly supported Nixon, stating that the government would not “assume the role of omnipotent hero righting all wrongs, knocking down all barriers with a flourish and redrawing the crazy-quilt map of our metropolitan

areas” (Los Angeles Times 1971). The HUD chief was showing signs that he, too, wished to avoid blame—and keep his job.

Reflecting much of the media sentiment, the *Detroit Free Press* labeled the June housing statement “as ambiguous as earlier pronouncements on school desegregation” (Friedman 1971). Many civil rights and housing groups were ambivalent in their responses.¹⁷ These groups found some cause for optimism when HUD took several small but positive steps following the announcement. These included issuance of new site selection criteria for subsidized housing that favorably weighted proposals expected to foster racial and economic integration, and publication of affirmative marketing guidelines designed to ensure that housing developers publicized the availability of housing in a non-discriminatory manner.¹⁸ Most prominently, Mitchell announced that the federal government would sue Black Jack, Missouri, a white working-class suburb of St. Louis with a population of 4,000, for a zoning change with a thinly disguised racial motive.

Looking to the Courts for Leadership

Within HUD, Romney found himself searching for strategies to avoid the pitfalls of his agency’s weak institutional home for civil rights. Was there a way for the agency to reflect his convictions about civil rights without sacrificing the housing production volume on which it ultimately would be judged? Romney and some top-level associates thought they might have found a way to accomplish their desegregation goals without raising the ire of the White House. As with other civil rights agencies, HUD looked to courts to bolster affirmative action efforts.

In this view, federal court decisions insisting that subsidized housing extend beyond the city limits of Atlanta, Chicago and Philadelphia would be the primary impetus for such change, eventually leading to court-ordered metropolitan-wide

housing plans and rezoning of racially and economically exclusionary residential areas. The Atlanta case (*Crow vs. Fulton County Commissioners*) was the most sweeping, ordering suburban officials to devise a plan to disperse subsidized housing into the suburbs after Fulton County rejected a building permit and sewer hookup for a federally aided, multi-family development that the Atlanta Housing Authority had proposed in the suburb of Red Oak. In addition, courts in seven states had overturned local zoning ordinances and building codes that discriminated against low- and moderate-income housing. While a number of observers pointed with pessimism to the refusal of the U.S. Supreme Court to address such questions, a competing perspective was that the high court's refusal to grant *certiorari* to these cases signaled its support for the rulings of the federal courts.¹⁹ Congress also flirted with the idea of creating metropolitan-wide agencies to plan and construct low- and moderate-income housing throughout an area's cities and suburbs. Support for the House bill, which was at one time believed to be broad and bipartisan, dissipated by April 1972, as skittish northern Democrats feared the electoral consequences come fall. HUD supported the measure behind the scenes (despite it being sponsored by Democrats), but did not try to save the proposal when it began losing support (Herbers 1972).

HUD attempted to convince communities that their agreement to accept a reasonable share of low- and moderate-income housing voluntarily would forestall stringent, court-mandated requirements. Romney predicted that “if the courts start ordering housing dispersal across metropolitan areas, it will provoke a far greater social crisis than the school busing one.” He insisted that courts would, nevertheless, force these housing opportunities to be created if localities did not do it themselves. “And if that happens, the local communities will have to suffer the consequences. I can tell you right now that they won't like them. We have been

trying to tell communities that. And so has the President.” (Lilley 1971b: 2348). Romney was referring to Nixon’s June 1971 statement, in which the President said it would be unwise for courts to make these policies, “[b]ut they no doubt will end up in the courts if they are not satisfactorily dealt with outside the courts through timely and enlightened local action.”

The White House took this possibility of judicially directed “open housing” policy quite seriously. Responding to *HUD v. Shannon* (1970), in which the U.S. Court of Appeals (Third Circuit) ruled that HUD’s decisions on approving proposed housing projects must consider whether they would perpetuate racial concentration, White House civil rights consultant Leonard Garment warned in February 1971: “The hydraulic principle that was operative in the school desegregation area is now clearly at work in housing—a vacuum of governmental policy in a Fourteenth Amendment area producing energetic ‘affirmative action’ policy on the part of the courts. The judicial surge in the housing area is particularly rapid because of preconditioning of courts and litigants by a decade of civil rights legislation.”²⁰

Several members of the Administration became interested in legislation that would create agencies to oversee housing allocation on a regional basis, with the power to overrule local objections to subsidized housing. An internal White House memo offered an explicit rationale of blame avoidance, arguing that if these metropolitan housing agencies had enforcement authority in the areas of site selection, project selection and approval, they “would serve as devices to relieve the pressures of suburban integration from the President.”²¹ In response, speechwriter Pat Buchanan—a frequent voice from the right in White House deliberations—objected that “there is no guarantee that it will surely diminish the ultimate political responsibility, which will fall...on the President—as many Court

decisions on busing have hurt the President.” Instead, Buchanan suggested that the White House “tie the hands of HUD, and prevent them from the kind of social outrage they attempted to perpetrate upon the folks of Warren, Michigan.” He expressed pessimism that his view would win out, given “our desire to ‘split the difference’ on the issue of forced integration...I am sure there are those within the White House here who are determined that Richard Nixon is to be the last worshiper in the Church of Integration before it closes down for good.”²²

Attacking HUD Indirectly

The termination of HUD’s pro-integrative efforts would not come in the forthright manner proposed by Buchanan. Instead, scandals at the Federal Housing Administration presented Nixon with an opportunity he did not have in the areas of employment and education: namely, taking advantage of an agency’s weak institutional home and dismantling civil rights efforts indirectly. When the Department of Housing and Urban Development was created in 1965, the enacting law assigned special status to FHA, retaining its separate identity under a commissioner who would also have assistant secretary status at HUD (Willmann 1967). FHA’s popularity and budgetary friendliness had long “helped to make it remarkably independent of the other agencies in Washington” (Jackson 1985: 366, N66). Sen. Edward Brooke (R-MA), an original co-sponsor of fair housing legislation in the Senate, elicited laughter during a summer 1970 congressional hearing when he asked HUD Secretary Romney, “Does FHA finally realize it is under HUD?”²³

As noted earlier, FHA believed historically that racial homogeneity was absolutely necessary for residential areas to remain stable and desirable (Gelfand 1975). The agency had long been known for conservatism in its financial decisions. However, several new programs enacted by Congress in the 1960s led FHA to do business in “risky” locales that it had historically avoided. Section 221(d)(2), enacted in 1961, did not involve cash subsidies, but liberalized down payment rules and lengthened maturities to enable inner-city residents to use the insurance programs. The Housing and Urban Development Act of 1968 established Section 223(e), which created a special risk pool to back mortgages in areas that were traditionally redlined, thus leading FHA and the private lending industry to underwrite high-risk mortgages (Metcalf 1988; Falk and Franklin 1976).

This opened the door for those in search of a quick profit, and many were not disappointed. The scam would typically begin with a team of realtors (often one white and one black) warning white residents in a declining neighborhood of impending racial transition and social problems, buying the properties cheaply from frightened residents, and making small cosmetic improvements to the properties. Next, the team would secure an FHA mortgage guarantee, which was relatively easy with the relaxed approval rules. Key to the generation of quick profits was the cooperation of FHA appraisers, often local realtors who, in some cases, were willing to submit inflated appraisals in exchange for under-the-table payments.

The owner would have little problem finding a lender, which under FHA guarantees assumed no risk. Buyers were also readily available, in light of the severe shortage of low- and moderate-income housing, and the relaxed down payment and mortgage repayment terms provided by the law. Thus, in a short

amount of time, the speculators could make a healthy profit on the property markup. In too many cases, the buyer took over a property needing repairs that s/he could ill afford to make, eventually discontinuing mortgage payments before abandoning the property altogether. After the mortgage went into serious default, the private lender would foreclose on the property, and HUD was required to pay the lender and take possession of a property with no willing buyers (Lilley and Clark 1972; Boyer 1973). In cities such as Detroit and Philadelphia, HUD was believed to be the largest owner of single-family dwellings. A series of reports in the *Detroit News* documented collusion between FHA appraisers who inflated their figures, HUD officials who accepted bribes, and real-estate operators and agents who reaped great profits (Lilley and Clark 1972; Metcalf 1988).

Romney admitted plainly that FHA had been unprepared for the “speculators and fast-buck artists” who swooped down on central cities after Congress relaxed procedures in those areas. In April 1972, the HUD secretary told a Senate appropriations subcommittee that “shady, get-rich-quick schemes have involved some real estate salesmen, some builders, some developers, and even some housing authorities who lined their pockets with the food money of unsophisticated home buyers and renters” (Washington Post 1972a, 1972b). Although he had tried to be a “good soldier” since Nixon’s June 1971 housing policy statement, this sort of bluntness had earned Romney the reputation as something of a loose cannon within the White House. In May 1972, Romney surprised many observers by making strong denunciations of urban renewal programs in testimony before the House HUD Appropriations Subcommittee. Domestic policy staffer Ken Cole agreed with the Secretary’s criticisms, but said “it is so unlike [Romney] to be taken [sic] on this program that I wonder if there isn’t a hidden trap for us somewhere.”²⁴

The former Michigan governor chafed at his inability to meet with the President so he could request greater hiring authority; Romney believed that increased agency oversight would help avoid further scandals. By the summer of 1972, the White House tried to appease Romney to avoid any signs of friction during the President's re-election campaign, but this attempt was short-lived. When the Administration was criticized for inadequate attention to flood victims in Wilkes-Barre, Pennsylvania, Nixon made Romney the scapegoat, instructing the Secretary to go there himself in a tersely worded order released to the media.²⁵ Romney submitted a resignation letter on August 10, but subsequently agreed to stay until sometime after the November election, when a replacement would be named.²⁶ In Romney's official letter of resignation dated November 9, he wrote that candidates avoid significant issues in political campaigns "for fear of offending uninformed voters and thus losing votes." In other words, politicians avoid significant issues to avoid blame.²⁷

In fall 1972, the White House began to consider a moratorium on all federal housing subsidies. The following January, Romney confirmed that an 18-month moratorium would take effect for all housing not already approved by HUD, commenting that he was "personally delighted that the administration has decided to stop doing business as usual in these programs" (Wall Street Journal 1973). While Romney had aggressively pushed these HUD policies, the FHA scandals left him "totally disillusioned," recalled Assistant Secretary Samuel Simmons (2001). The housing freeze consisted of: a moratorium on all new commitments for subsidized housing programs (including Sections 235 and 236); no new commitments for water and sewer grants, open space land programs and public facilities loans until Congress established a program of community development special revenue sharing under which these programs would be subsumed; and a

hold (effective July 1, 1973) on all new commitments for urban renewal and Model Cities funding, as well as smaller Farmer's Home Administration programs in the Agriculture Department (Hays 1995).

The freeze brought an effective end to HUD's suburban integration efforts. Without the threat of subsidized housing and the prospect of judicial mandates to integrate, communities typically found no incentive to address economic and racial segregation. In his explanation of the moratorium, Nixon said: "It now is clear that all too frequently the needy haven't been the primary beneficiaries of these programs; that the programs have been riddled with inequities; and that the cost for each unit of subsidized housing produced under these programs has been too high" (Karmin 1973: 34; McBee 1973). HUD made no effort to fix problems in the 235 and 236 programs prior to the freeze, and agency employees later complained that the moratorium was unsupported by any relevant data. In fact, most of the inner-city scandals came in FHA mortgage-insurance programs that were unsubsidized (Danielson 1976; Karmin 1973). Perhaps the most pertinent data in the eyes of the White House were the spiraling costs of the subsidized housing program. During Nixon's first term, housing subsidy outlays had increased five-fold, with nearly \$2 billion allocated in fiscal 1973, as federal subsidized housing starts had jumped from 91,400 in 1967 to a peak of approximately 430,000 in both 1970 and 1971 (HUD 1973). As court-ordered integration became a distinct possibility, Nixon found clear incentives to take severe action against HUD.

Undersecretary of Commerce James T. Lynn, a Republican loyalist, took over as HUD Secretary on February 2, 1973. When Nixon rescinded the moratorium in the summer of 1974, the window of opportunity for substantial progress in residential integration had closed. Congress passed the Housing and Community Development Act of 1974 under new President Gerald Ford. The

legislation continued Sections 235 and 236 at drastically reduced levels of funding, and relied heavily on the Section 8 program, which provided direct subsidies to tenants for rent (Hays 1995). In the absence of counseling about housing options, users of Section 8 infrequently made pro-integrative moves.

HUD's Policy Alternatives

To understand why HUD's civil rights efforts produced so few tangible results and became so vulnerable, one must understand the range of possibilities for giving life to its vague mandate to take "affirmative action" in promoting "fair housing," and the constraints that HUD's Office of Equal Opportunity faced in enacting its policy preferences. In broad terms, HUD had three primary options to carry out its fair housing mandate.²⁸ The first—probably the minimum effort required by the law—would have involved federal intervention only in cases of individual discrimination. In awarding federal monies, HUD would not consider the racial and economic impacts of a proposed project seeking agency assistance. This case-by-case approach would have been the least controversial politically. However, like its counterparts at the Equal Employment Opportunity Commission, HUD quickly discovered that pursuing individual complaints of discrimination took up considerable resources, resulted in ever-growing backlogs, and produced few measurable results.

Open housing supporters repeatedly criticized HUD's concentration on individual complaints as ineffective responses to systemic racial discrimination.²⁹ In one draft response to NCDH, the agency acknowledged that "individual complaint processing is not likely to be as effective a means of ending discrimination as actions directed at the system that supports and encourages discriminatory housing practices."³⁰ A middle road, which is what HUD largely

stuck to, entailed Justice Department intervention in clear cases of official, as well as individual, discrimination (such as the Black Jack case), and gave some weight to anticipated racial and economic impact in approving sites for subsidized housing and grant awards. The third option, urged by advocacy groups and HUD's civil rights staff, would have followed the employment bureaucracies and initiated government action in cases where zoning or other provisions had the *effect* (even in the absence of intent) of limiting housing opportunities for minorities. The U.S. Commission on Civil Rights (1971: 421-7) encouraged HUD's Office of Equal Opportunity to concentrate on "community compliance reviews which would uncover the total range of discriminatory housing practices occurring in an investigated community rather than the exact facts of the individual discriminatory act." The agency argued that it did not have the authority to conduct a compliance review of a non-recipient of HUD assistance unless a complaint had been filed against this party. This position was at odds with that of the Equal Employment Opportunity Commission.³¹ Like HUD, the EEOC's enforcement authority was severely limited by Congress (at least until 1972, when the agency's powers were augmented). This did not stop the employment agency from regularly undertaking investigations without having received a complaint.

However, while EEOC employees were united in their goal of fighting employment discrimination, HUD's civil rights mission was usurped by the housing production mandate, thus making it difficult for the agency's Office of Equal Opportunity to act aggressively and resist political attacks. Housing production did not merely supersede the fair housing mission—at times it came into direct conflict with it. With Congress calling for huge increases in home building, the production staff did not want civil rights concerns to gum up the approval process. In addition, some agency staffers feared that Congress would move

“their” programs to other agencies (Hays 1995). These clashes came out into the open in July 1970 with the very public resignation of Robert Affeldt, the director of the Equal Opportunity office’s conciliation division. Affeldt asserted at a news conference that “the program directors are production oriented and they regard any form of quality control in the form of equal opportunity as an infringement upon their feudal domains. It is a tragedy that program directors and not the assistant secretary for equal opportunity possess the power to withhold or cut off funds...This is comparable to a person being a judge, jury, and prosecutor in his own case. It is seldom that such a person or program director will act against his own self-interest.”³²

The indifference of the housing production staff to fair housing objectives was not the biggest price that the civil rights staff paid for its weak institutional home. In the sprawling, disjointed HUD bureaucracy, essentially unrelated scandals destroyed the legitimacy of suburban integration initiatives, offering a ripe opportunity for President Nixon to practice the politics of blame avoidance. While FHA’s legacy of segregationist housing policies may have given HUD’s Office of Equal Opportunity a longer road to travel on the way to desegregation, it was not the pivotal factor in explaining the failure to develop meaningful pro-integrative policies. HUD’s OEO certainly believed it could follow the legacy of other civil rights agencies and implement a race-conscious, affirmative action policy, and courts were beginning to back these efforts. It was the OEO’s disadvantaged institutional home, reflected in its secondary status with regard to agency structure and mission, that most damaged civil rights initiatives.

If civil rights efforts been housed in a stand-alone agency—as envisioned in the 1966 Fair Housing Act that passed the House before stalling in the Senate—aggressive efforts would have been considerably more likely, as this fair housing

board would have a lessened risk of losing legitimacy, since scandals in other agencies presumably could not be used to tarnish its own reputation. Moreover, Nixon would have faced a higher-stakes political gamble, had he chosen to attack the fair housing agency directly. In fact, even if the Office of Equal Opportunity remained within HUD but had funding cut-off authority, it might have developed its own separate identity, and this may well have resulted in a different sequence of agency actions and White House responses. One might have seen the Office of Equal Opportunity acting in similar fashion to the Department of Health, Education and Welfare's Office for Civil Rights, battling publicly with the White House as agency employees tried to carry out desegregation plans. In the case of school desegregation, the Nixon White House appeared to be most concerned with publicizing its opposition to busing, and shifting the political burden of desegregation to Congress or the courts. It is a good guess that Nixon would have attempted a similar strategy in housing, had the position of HUD's civil rights office within the agency more closely resembled that of its counterpart within HEW.

Conclusion

The actual historical circumstances provoke reconsideration of Nixon's actions in civil rights. He was typically viewed as a politician playing to white racial resentment at rapid civil rights gains and increasing violence in urban areas. At the same time, he oversaw the greatest increases in school desegregation and spearheaded the entrenchment of affirmative action in employment.

In terms of political strategy, the Philadelphia Plan to integrate the construction trades was his masterstroke. Declared illegal by the Johnson Administration, the Philadelphia Plan was revived under Nixon, requiring prospective construction contractors to set minority hiring targets; employers that did not reach their targets would have to show that they had made a “good faith” effort to reach them (Belz 1991; Skrentny 1996; Graham 1990). As recalled by domestic policy advisor John Ehrlichman (1982) and noted by many scholars, Nixon viewed the Philadelphia Plan as a means of causing rifts between two core constituencies of the Democratic Party: African-Americans and labor. Despite his pivotal role in establishing racial goals and timetables in employment, Nixon was able to label Democrats as the party of race and quotas in his 1972 re-election campaign.³³

For all of Nixon’s inflammatory rhetoric, the White House only intervened once to delay busing (Kotlowski 1998). The Administration shifted its enforcement emphasis from funding cut-offs to suits in federal court, so that the judiciary, rather than the executive branch, would be blamed for continued busing orders. When the Supreme Court’s *Alexander v. Holmes County* (1969) decision ordered that dual school systems be abandoned “at once,” rather than granting the “reasonable” delay the Administration had requested, the President and his aides had no problems with the verdict, since it put the onus on the courts for integration (Graham 1990; Halpern 1995).³⁴

This same concern with blame avoidance was reflected in White House deliberations over open housing policies. Laying out Administration options in this field in a March 1971 memo, civil rights advisor Len Garment noted that there is “gathering momentum toward indiscriminate zoning invalidation (i.e., on economic as well as racial grounds)...” John Ehrlichman scribbled in the margin:

“If courts so rule ok—but the Admin. shld not be party to this.”³⁵ The interest in the creation of metropolitan housing agencies also reflected the paramount interest in avoiding blame and lowering political risk. These motives are revealed as well in the President’s indirect halt to civil rights efforts. The Administration had a scandal to justify the housing moratorium, though it did not try to address problems in the subsidized housing programs before freezing them. Nixon did not point to the controversial suburban integration policies in justifying the moratorium, despite being “fixated” (in John Ehrlichman’s recollection) during the re-election campaign on publicizing his opposition to “forced integration” in housing and education (Carter 1995: 423).

Underscoring Nixon’s great caution is the fact that he waited until after his re-election to enact the freeze. With the political playing field as it was, Nixon did not need to take that gamble in the fall of 1972. In May 1972, after having finished second in the Wisconsin Democratic primaries, George Wallace was paralyzed by an assassin's bullet. He won the Maryland and Michigan primaries the day after being shot, but his days of being a real threat to Nixon's right flank were over (Raines 1998). Thus, Nixon probably saw little benefit in risking attacks from the McGovern camp for a housing freeze, given the imposing housing shortages that remained.³⁶

How does the case of housing add to our understanding of Nixon’s civil rights policies? According to Kotlowski (2001: 3), Nixon crafted a record of “moderate deeds matched against reactionary words.” Nixon flipped this formula on its head with the housing freeze, a case in which the deeds reached considerably beyond the words. While the historical record provides no direct evidence showing that suburban integration controversies motivated the decision to declare the freeze, the continued concern in the White House over HUD’s initiatives in this

area suggests that it was an important consideration. If the White House was only concerned about scandals in inner-city housing programs, it could have focused on this area, rather than indiscriminately halting virtually all federal involvement in housing.

Graham (1990:302) argues that Nixon tailored his civil rights policies “to maximize their political payoff.” Taking into consideration his actions in the three main areas of civil rights (housing, education and employment), it becomes apparent that Nixon was not concerned with maximizing his payoff so much as hedging his bets. More important to him than receiving credit was avoiding blame. It is in this context that one can understand the fact that housing integration efforts—though less publicized and less aggressive than attempts in employment and education—received the harshest treatment from the Nixon White House. Because of the weak institutional home for civil rights within the agency, and the scandals in FHA, Nixon found a target that was susceptible in ways that other civil rights bureaucracies were not. It was an opportunity he could not resist.

The President’s decision to freeze housing funds and indirectly stall desegregation efforts *after* his re-election begs for an explanation that goes further than one emphasizing “the primacy of re-election politics” (Graham 1996). In terms of vote-getting, the controversial housing moratorium offered little in the way of political dividends. It did, however, allow him to forestall blame in at least two ways. With the timing of the freeze, Nixon did not risk losing votes from constituencies that benefitted from federal housing funds (builders, the mortgage industry, and so on). At the same time, he was able to avoid a repeat of the school busing scenario, in which the judiciary fueled highly unpopular desegregation efforts. While Nixon was able to deflect some blame for these controversies, he engendered his share of public animosity for his failure to stop the imposition of

busing plans. As courts began to back residential desegregation remedies, Nixon certainly did not relish undergoing similar political damage—to his legacy, if not to any future election prospects—in the area of housing. The housing freeze gave him a means of evading this possibility without enduring attacks for “turning back the clock” on civil rights.

The “lessons” of this case study are not limited to the odd contours of Nixon’s civil rights policies. First, this study suggests that scholarly inattention to “failed” or less prominent policies may not only be a missed opportunity to mine fresh and interesting data sources. This bias toward “successful” cases may distort our historical understandings of policy development. Second, this study forges some new ground in understandings of blame avoidance strategies. In formulating a strategy to avoid blame, political actors must consider how the objects of their blame-shifting are likely to respond. Some targets are likely to fight back, resulting in a prolonged, ugly battle that renders involved parties susceptible to real political damage. Politicians may love a good fight, but if at all possible, they will choose ones they can win quickly and decisively.

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Notes

I thank Edwin Amenta, Tom Burke, the Eastern Conference All-Stars dissertation group, John Skrentny, Margaret Weir, and the editors and reviewers of *Social Science History* for helpful feedback on this work. Research support was provided by the Robert Wood Johnson Foundation, the National Science Foundation and New York University. Please direct correspondence to: Chris Bonastia (bonastia@uclink.berkeley.edu), RWJ Scholars, University of California, Berkeley School of Public Health, 140 Warren Hall MC 7360, Berkeley, CA 94720.

1. On employment, see, e.g., Graham 1990; Skrentny 1996; Belz 1991. On education, see Kotlowski 1998, 2001; Rabkin 1980.
2. Glazer (1987) examines anti-discrimination policies in all three areas, though his primary focus is on the unfairness of race-conscious policies rather than on how they are established and carried out. Kotlowski (2001) covers all three areas as well, but accords very little attention to dynamics and power relationships within agencies. Quadagno (1994) offers a brief explanation of the failure of residential integration policy, but does not try to explain the divergence of housing from other civil rights policies. Danielson (1976) explores the obstacles in crafting pro-integrative policies at the federal level. Metcalf (1988) focuses largely on the judicial aspects of fair housing law.
3. See, for example, Darden 1995; Farley 1996; Massey and Denton 1993; Yinger 1995.
4. Political discourse in the Nixon era focused almost exclusively on black/white segregation. In the present-day United States, measuring and understanding residential segregation calls for a rethinking of the black/white paradigm to account for the residential patterns of Asians and Latinos.
5. See Pierson 1994 on obfuscation as a retrenchment strategy.
6. The fair housing section of the Act built upon a pair of more limited fair housing policies: Kennedy's 1962 Executive Order 11063 and Title VI of the 1964 Civil Rights Act. These two provisions prohibited discrimination in the sale and rental of low-rent public housing; the initial sale of newly constructed housing built with mortgages insured or guaranteed by the FHA or VA after the 1962 order (though the agencies were lax in enforcing these laws); and new housing under the urban renewal program, college housing program, senior citizens' housing program and some of the federal rural housing programs, provided the federal assistance was received after the applicable effective date of the 1962 order or 1964 legislation. Then-HUD Secretary Robert Weaver estimated that those laws covered only about three percent of existing housing.
7. The 1968 act excluded some owner-occupied dwellings from coverage. Only two months after passage, the Supreme Court ruled in *Jones v. Mayer* that an 1866 civil rights law barring "all racial discrimination, private as well as public, in the sale or rental of property" guaranteed the right to non-discrimination virtually without exception (Rosenberg 1991).

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8. Taking a shot at Romney's intellect, Democratic Senator and presidential candidate Eugene McCarthy joked that, "in his case, a little light rinse would have been more than enough" (Daily Telegraph 1995).
 9. Testimony of George Romney, House Judiciary Committee/Civil Rights Oversight Committee (Subcommittee No. 4), Hearings on "Federal Government's Role in the Achievement of Equal Opportunity in Housing," 9 December 1971, 374.
 10. At the same time, Romney sometimes annoyed other politicians, who could find him self-righteous. As HUD secretary, he endeared few colleagues in the Administration by proposing to return one-quarter of his salary to the Treasury as his contribution to the battle against inflation (Times 1995).
 11. See Testimony of Anthony Downs, Senate Select Committee on Equal Educational Opportunity (hereafter SSC), "Part 5—De Facto Segregation and Housing Discrimination." September 1, 1970.
 12. Memo, George Romney to President Nixon, "The HUD Inheritance," 14 February 1969. National Archives and Records Administration (College Park, Maryland), U.S. Department of Housing and Urban Development (hereafter HUD), RG 207, Files of Richard C. Van Dusen, Box 74.
 13. Romney speech to National Association of Home Builders, January 19, 1970. Library of Congress, Papers of the Leadership Conference on Civil Rights, Part I, Box 105, Folder: HUD 1970.
 14. Romney and Under Secretary Richard Van Dusen had tried to convince top White House and Justice Department officials that federal authority was justified and necessary to forge demonstrable progress in the area of suburban integration. Reportedly, Romney and Van Dusen ran into particular objections from Attorney General John N. Mitchell and presidential assistant John Ehrlichman, both of whom were quite knowledgeable about laws concerning land use, as the former was a zoning lawyer in Seattle for 18 years and the latter developed expertise on zoning as a municipal bond attorney (Clawson 1971).
 15. "Statement by the President on Federal Policies Relative to Equal Housing Opportunity," 11 June 1971. Nixon Presidential Materials (NPM), White House Central Files, Staff Member and Office Files, Alpha-Subject Files, Papers of Leonard Garment, Box 94.
 16. "Press Conference on Equal Housing Opportunity," 14 June 1971. NPM, White House Central Files, Staff Member and Office Files, Alpha-Subject Files, Papers of Leonard Garment, Box 96. In a March 1971 White House memo, civil rights policy advisor Len Garment stressed that the position of fair housing groups that exclusionary zoning with a racially discriminatory

effect is illegal “is not a straw man, and...the law seems in fact to be moving in that direction.” See Civil Rights During the Nixon Administration (CRNA), Reel 20, Box 19, 848.

17. For example, National Committee Against Discrimination in Housing president Robert L. Carter attacked the statement at a Civil Rights Commission hearing as “nothing less than an open endorsement of apartheid in the United States” (Danielson 1976: 231). However, he said in a subsequent interview that “either I’ve misread the full import of the statement or these principles may not mean what I thought they meant. I’m now adopting a wait-and-see attitude” (Los Angeles Times 1971).

18. Under the site selection guidelines, HUD officials were to judge applications under several subsidy programs in terms of eight broad objectives, one of which was termed “minority housing opportunities.” This objective was intended “to provide minority families with opportunities for housing in a wide range of locations; [and] to open up nonsegregated housing opportunities that will contribute to decreasing the effects of past housing discrimination.” Projects were rated under each objective as superior, adequate or poor, with the latter ranking in any category disqualifying the application.

19. With regard to the court decisions, see *Kennedy Park Homes Assoc. v. City of Lackawanna, N.Y.*, 1968-71; *Gautreaux v. Chicago Housing Authority and HUD*, 1969-71, 1976; *Shannon v. Philadelphia Housing Development Corporation and HUD*, 1969-71; and *Crow v. Fulton County, Ga. Commissioners*, 1970-71.

20. Memo, Leonard Garment to John Ehrlichman. 26 February 1971. CRNA, Reel 20, Box 19, 836-45.

21. Memo, Dana Meade to Ken Cole, 16 December 1971. CRNA, Reel 20, Box 19, 983.

22. Memo, Pat Buchanan to Meade, 27 December 1971. CRNA, Reel 20, Box 19, 1048.

23. Testimony of George Romney, SSC, “Part 5—De Facto Segregation and Housing Discrimination,” 25-7 August and 1 September 1970: 2775.

24. Memo, Ken Cole to Dana Mead, 22 May 1972. NPM, White House Central Files/Subject Files, HS Box 2.

25. The incident prompted the secretary’s wife, Lenore Romney, to write a personal letter to John Ehrlichman expressing grave disappointment in the White House’s lack of loyalty to the HUD chief (NPM, White House Special Files/Staff Member and Office Files, John D. Ehrlichman, Alpha-Subject File: George Romney).

26. Letter, George Romney to Richard Nixon, 10 August 1972. NPM, White House Special Files/Staff Member and Office Files, John D. Ehrlichman, Alpha-Subject File: George Romney Folder.

27. While intending his remarks to be taken about American politics generally, Romney acknowledged in response to a reporter's question that he did not believe the important issues were discussed in the 1972 Presidential contest between Nixon and George McGovern (Chapman 1972).

28. See Memo, Tom Stoel to Leonard Garment. CRNA, Reel 20, Box 19, 870-6.

29. See National Committee Against Discrimination in Housing, "Response to questions as to how the federal fair housing law can be made more effective," SSC, "Part 5-De Facto Segregation and Housing Discrimination," 25-7 August and 1 September 1970: 2916-19.

30. Department of Housing and Urban Development Comments on Proposals of National Commission Against Discrimination in Housing (Draft), 21 August 1969. HUD, RG 207, Subj Corr 1969, Box 68, Rel 6-2. I was unable to locate the version of the comments that were actually sent, so I am uncertain as to whether HUD made this statement publicly.

31. "Department of Housing and Urban Development Response to Questions of the U.S. Commission on Civil Rights," 18 August 1972. HUD, RG 207, Subj Corr 1972, Box 132, Rel 6.

32. "Affeldt's Statement," 18 July 1970. HUD, RG 207, Van Dusen, Box 25.

33. In early 1970, the Labor Department expanded affirmative action requirements to all federal contractors, and affirmative action in employment received judicial backing in the Supreme Court's *Griggs v. Duke Power Co.* (1971) decision. On dividing core Democratic constituencies, see Ehrlichman 1982. On lowering construction costs, see Stein 1998. On tagging Democrats with the "race and quota" label, see Skrentny 1996.

34. Nixon's proposed busing moratorium—which went nowhere in Congress—came two days after George Wallace decisively won the Democratic presidential primary in Florida.

35. Memo, Len Garment to John Ehrlichman, 15 March 1971. CRNA, Reel 20, Box 19, 848.

36. Scholars will recall that Nixon attempted the same "freeze" strategy in education, asking Congress in March 1972 to place a moratorium (until July 1973) on new busing orders by the courts while it considered legislative approaches to the busing issue. The proposed legislation would have let existing orders stand. Congress did not enact the freeze, but as John Ehrlichman recalled: "Whether Congress passed the busing moratorium was not as important as that the American people understood that Richard Nixon opposed busing as much as they did" (1982: 220-1). A freeze appears less extreme than declaring a permanent end to school busing or housing aid. This, too, can be viewed as a means of diminishing blame that might accrue to the president.