

## Native Americans and Alaska Natives: The Forgotten Minority

### American Indian Tribes and Structural Racism

by Sherry Salway Black

American Indian tribes and people face circumstances unique to any other racial or ethnic group in the United States. No other racial or ethnic group has as the basis of its relationship with the U.S. a legal framework of treaties, executive orders, judicial rulings and laws spanning centuries. This legal framework, developed over the past 300 years, has resulted in a system that was supposed to protect the rights and trust assets of tribes and Indian people, but in reality has created structures and systems that thwart self-determination and diminish the value of Native assets. These constraints, coupled with social and economic inequities, are the root cause of the severe problems that

tribal governments face in providing the infrastructure, services and conditions necessary for healthy community development.

Analysis of the socio-economic conditions confronting tribes and Indian people today typically focuses on this unique federal Indian history and relationship. It is not often described in terms of racially-based policies and inequities, but rather a direct “[federal] nation-to-[tribal] nation” relationship, from which the federal trust responsibility is derived. Yet, one cannot overlook or undermine the racial basis of many policies of colonialism and paternalism that are the hallmarks of federal-Indian relations—and are reflected in present-day policies.

Historically and continuing into the modern era, the Indian policies of the federal government have been aimed either at dismantling tribal governments and assimilating Native people or at paternalistically isolating tribes to misappropriate their assets. By all accounts, these mixed and often misguided efforts resulted in the devastating social conditions found on many reservation communities today. Moreover, these policies left tribal governments facing a host of structural im-

(Please turn to page 6)

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#### CONTENTS:

<b>Native Americans:</b>	
<b>Structural Racism .....</b>	<b>1</b>
<b>US Human Rights</b>	
<b>Network .....</b>	<b>2</b>
<b>Cobell Litigation .....</b>	<b>7</b>
<b>Tribal Self-</b>	
<b>Government .....</b>	<b>8</b>
<b>Apology Resolution ..</b>	<b>9</b>
<b>Housing .....</b>	<b>10</b>
<b>Health .....</b>	<b>14</b>
<b>Boarding Schools ....</b>	<b>17</b>
<b>Juvenile Justice .....</b>	<b>19</b>
<b>Blacks &amp; the</b>	
<b>Economic Crisis .....</b>	<b>3</b>
<b>Annual Funding</b>	
<b>Appeal .....</b>	<b>5</b>
<b>Witt Internship</b>	
<b>Award .....</b>	<b>12</b>
<b>Sentencing</b>	
<b>Enhancement Zones</b>	<b>22</b>
<b>Greensboro Truth/</b>	
<b>Reconciliation</b>	
<b>Commission .....</b>	<b>24</b>
<b>Resources .....</b>	<b>27</b>
<b>Index Vol. 17 .....</b>	<b>30</b>

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# Indigenous Peoples

## **Response to the Periodic Report of the United States to the United Nations Committee on the Elimination of Racial Discrimination**

February 2008

**Prepared by:** U.S. Human Rights Network CERD Working Group on Indigenous Peoples, Alberto Saldamando, Working Group Co-coordinator, International Indian Treaty Council; Julie Fishel, Working Group Co-coordinator, Western Shoshone Defense Project; Indian Law Resource Center; Hope Clark, Candidate for Masters in Intercultural Service, Leadership, and Management from the School for International Training; Manuel Pino; Josh Clark; Tom Goldtooth, Indigenous Environmental Network; Jaime Arsenault; Roxanne Ornelas, University of Minnesota; Sakura Saunders, CorpWatch.

### **Executive Summary of the Report of the Working Group on Indigenous Peoples**

The International Convention on the Elimination of All Forms of Racial Discrimination provides numerous protections for indigenous peoples. Article 1 addresses freedom from discrimination based on race, color, descent or national or ethnic origin. Article 2 requires States to refrain from practicing racial discrimination. Article 5(a) guarantees the “right to equal treatment before the tribunals and all other organs administering justice,” and Article 5(b) guarantees the “right to security of person and protection by the State against violence or bodily harm....” Article 5(c) guarantees equality in the enjoyment of political rights. Articles 5(d)(v) and (d)(vii) provide that signatory States must

guarantee the right of everyone to equality before the law, particularly with regard to the “right to own property alone as well as in association with others” and the “right to freedom of thought, conscience and religion.” Articles 5(e)(iv), (e)(v), and (e)(vi) provide that signatory States must guarantee the right of everyone to equality before the law, particularly with regard to the “right to public health, medical care, social security and social services,” the “right to education and training,” and “the right to equal participation in cultural activities.”

Despite these protections and obligations, by every measure, indigenous peoples in the United States continue to rank at the bottom of every scale of economic and social well-being, in and of itself powerful evidence of the existence of racial discrimination in the US. Moreover, the domestic laws and policies of the United States perpetuate a legal system that has blatant and significant discriminatory impacts on indigenous peoples, particularly with regard to rights to property, religious freedom, cultural activities, health, education and political rights. The federal government, acting through Congress and the executive branch, continues to take tribal lands and resources, in many cases without payment and without any legal remedy for the tribes. Congress frequently re-

sponds to Indian property and Indian claims by enacting legislation that would be forbidden by the Constitution if addressed to any other group’s property or claims. Because the federal government asserts essentially limitless power over Indians, and engages in constant intrusion in the affairs of indigenous peoples under the plenary power doctrine, Indian governments cannot effectively govern their lands or carry out much-needed economic development. This denial of simple justice has long served to deprive Indian nations of a fair opportunity to advance the interests of their communities. The untenable and insecure position of indigenous peoples vis-à-vis the federal government in the US is unique, and gives rise to multiple violations of the rights of indigenous peoples under the Convention.

The federal court system of the United States has affirmed that the federal government is under an obligation to conform its laws as much as possible to international law. Despite this obligation, the United States continues to flagrantly violate many of its legal obligations under the Convention when developing and implementing domestic policy relating to indigenous peoples.... ▣

*The full report is available at [http://:ushrnetwork.org/files/ushrn/images/linkfiles/CERD/5\\_Indigenous%20Peoples.pdf](http://:ushrnetwork.org/files/ushrn/images/linkfiles/CERD/5_Indigenous%20Peoples.pdf)*

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# Scapegoating Blacks for the Economic Crisis

by Gregory D. Squires

A simple, yet likely powerful, explanation has now been offered for the subprime mortgage lending and foreclosure problems that have fed the nation's gravest economic crisis since the Depression. The beauty and simplicity of this explanation makes one wonder why it took so long for us to see it. According to this view, it was the fault of black people! The federal government, another favorite whipping boy, also played a hand in this by trying to increase homeownership among minorities and other "undeserving poor." The combination of big government and blacks simply could not be resisted any longer. As Fox News' Neil Cavuto concluded, "Loaning to minorities and risky borrowers is a disaster."

According to many conservative commentators including Cavuto, Charles Krauthammer (*Washington Post*), Lou Dobbs (CNN) and editorial writers at the *Wall Street Journal*, it is the federal Community Reinvestment Act—basically a ban on red-lining—that forced lenders to make bad loans to African Americans, other minorities and other unworthy recipients in poor neighborhoods around the nation, leading to the challenges that are now plaguing the nation's economy. The argument is gaining traction. And it is utterly false.

Under the Community Reinvestment Act (CRA), passed in 1977, Congress concluded that "regulated financial institutions have a continuing and affirmative obligation to help meet the

credit needs of the local communities in which they are chartered." This included all communities in a lender's service area, and federal financial regulatory agencies were charged with the responsibility to "assess the institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of such institution." The goal was to put an end to red-lining and to increase access to credit for

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## ***The argument is utterly false.***

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qualified borrowers in areas that had long been underserved. But, again, only "consistent with safe and sound" lending practices. And the law has worked.

Prior to the CRA, government policy, particularly federal policy, complemented private industry practices to deny credit in minority neighborhoods, undercut minority homeownership and perpetuate racial segregation. As is now well known, for at least the first 30 years of its existence, the Federal Housing Administration insured mortgage loans almost exclusively in white, suburban communities. Urban renewal and the concentration of public housing in central city neighborhoods reinforced traditional patterns of segregation. And the federally financed highway system enabled white suburbanites to commute to their downtown jobs without coming into contact with racial minorities and predominantly minority communities. Exclusionary zoning ordinances in virtually every suburb to this day keep housing prices artificially high, discouraging low-income families, disproportionately people of color, from moving into the more prosperous and predominantly white neighborhoods outside of central cities.

But government has hardly acted alone. Overt red-lining, along with

more subtle practices by mortgage lenders (e.g., refusing to finance, or providing loans only on more onerous terms, for older and lower-priced homes), steering by real estate agents, fraudulent appraisals and other practices reinforced racial segregation throughout U.S. metropolitan areas.

The CRA was enacted as part of an effort to undo the effects of such public policies and private practices, and it is succeeding. According to studies by the Treasury, the Federal Reserve, Harvard Joint Center for Housing Studies and others, the CRA has led to increasing homeownership in precisely those economically distressed markets where the law intended to do so; it has nurtured integration by increasing homeownership for racial minorities in predominantly white neighborhoods that have traditionally been closed to them; and CRA-related lending has been found to be profitable. If any lender made a loan to a black applicant (or anyone else) who was not qualified, that lender simply did not understand the law. If such lending institution was told it had to do so, it was by a compliance officer who did not understand the law.

Timing alone demonstrates the erroneous nature of the CRA critique. The law was strongest in the 1990s, before the statute was watered down and before the surge in subprime lending. Not coincidentally, the CRA was weakened by the Phil Gramm-led Financial Modernization Act of 1999 and subsequent regulatory "reforms." As a result, fewer mortgage lenders were covered by the law, and the rules that did apply to many institutions were less stringent. So the CRA was strongest when families were able to buy and stay in their homes at record levels. The law was weakened just as the subprime lending craze took off, with the foreclosure and related economic crises that immediately followed.

More importantly, it is essential to understand that CRA-covered lenders

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(SCAPEGOAT: Continued from page 3)

did not make the loans that went bad. When the law was passed in 1977, approximately three-quarters of all mortgage loans were made by depository institutions covered by the CRA. Today, approximately three-quarters of all loans are made by independent mortgage brokers and bankers that have never been covered by the law. And as the National Community Reinvestment Coalition reported, CRA lenders have originated less than one-quarter of subprime loans, with the overwhelming number of those loans—the loans that have led to the mortgage meltdown—being made by institutions that had no CRA responsibilities. In 2005, the Federal Reserve reported that just 5% of loans made by CRA institutions were high-cost loans, compared to 34% for non-CRA lenders.

With the federal government about to spend as much as \$700 billion to “invest” in troubled financial institutions, CRA and related fair lending

laws should be even more rigorously enforced. Here is an opportunity for the federal government to significantly advance the cause of fair lending, fair housing and equitable community development generally. As Janet L. Yellen, President and CEO of the San Francisco Federal Reserve Bank, stated last March:

There has been a tendency to conflate the current problems in the subprime market with CRA-motivated lending, or with lending to low-income families in gen-

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**CRA-covered lenders did not make the loans that went bad.**

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eral. I believe it is very important to make a distinction between the two. Most of the loans made by depository institutions examined under the CRA have not been higher-priced loans, and studies have shown that the CRA has in-

creased the volume of responsible lending to low- and moderate-income households. We should not view the current foreclosure trends as justification to abandon the goal of expanding access to credit among low-income households, since access to credit, and the subsequent ability to buy a home, remains one of the most important mechanisms we have to help low-income families build wealth over the long term.

Unfortunately, there is no magic bullet for what ails the nation's economy. Apparently this does not undermine the appeal of simple solutions, particularly when they buy into long-standing stereotypes. Among the many responsibilities now confronting policymakers, as the public is about to make its multi-billion dollar investment, is to resist the racist, anti-government rants that have all too often fueled public policy and private practice throughout our nation's history. □

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## From “Adverse Uses” to “Moral Hazards”

by William L. Taylor

This is to underline and elaborate briefly on the excellent article by Gregory Squires on the myths that conservatives have propagated to blame the current financial crisis on African Americans and government.

First, it is not just conservative commentators who are blaming minorities for the meltdown. Republican leaders in Congress such as Eric Cantor (R-VA) have challenged Barney Frank's demonstration of the failure of regulation for more than a decade to restrain unscrupulous lending practices. The conservative pur-

pose is to stave off new regulation and make mortgage credit unavailable even to people who are sound risks.

Second, a little history is in order. During the 1930s, 40s and into the 50s, the Federal Housing Administration was helping people who could afford only low downpayments to acquire

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**A little history is in order.**

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decent housing. But FHA policy (which reflected state policies and real estate practices) sought to restrain access by black families to housing in white areas. Such “adverse (or mixed) use” would depress property values, in the view of the FHA. These policies help explain the absence of black families from suburbs, the gap between FHA loans to blacks and whites, and ultimately, the asset gap between fami-

lies who acquire wealth by paying off mortgages and those who are unable to do so.

These inequities continued largely unabated until the 1970s when, as Squires reports, Congress passed the Community Reinvestment Act to increase access to credit for borrowers in low- and moderate-income housing.

Something else happened, too. The civil rights laws, particularly the Civil Rights Act of 1968, barred discrimination in housing. But the agencies—including the Federal Reserve—charged with regulating lenders largely ignored their responsibilities. In the 1970s, when the Federal National Mortgage Association (Fannie Mae) entered the secondary market, they proposed to adopt all the worst practices of the industry. They said they would not approve mortgages that counted a spouse's income (women

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## Does PRRAC still need your contribution?

We woke up on November 5th with the realization that a *civil rights lawyer and community organizer* has been elected President of the United States: someone who has shown that he understands the challenges America still faces at the intersection of race and poverty, and the structural issues that we wrestle with daily in our work.

The election of Barack Obama presents an unprecedented opportunity for civil rights groups—but it also brings new challenges. We understand, after the long campaign, that there will be pressures to downplay racial justice issues as the new President seeks to reach consensus on the economic crisis and foreign policy. Yet we also know that there will be enormous potential for change, and many new doors will be open to civil rights researchers and advocates to help frame the future. We need your support to take advantage of this historic opportunity.

The ongoing response to the foreclosure crisis is one example of why PRRAC's work is so important. As difficult as the current economic crisis is for middle-class Americans, its impact on families living in low-opportunity neighborhoods is severe—neighborhoods where the bottom is literally falling out of the housing market, and where quality health care, employment and education are often out of reach. And the way that foreclosure relief is structured could have a profound long-term impact on these neighborhoods and the families living in them.

This is an example of how PRRAC can contribute—by helping to analyze the hidden impacts of law and policy on poor people of color; to spot new challenges to fairness as they arise; and to work hand-in-hand with policy innovators on solutions that will bring about genuine equality of opportunity.

\* \* \* \* \*

PRRAC has had a highly productive 20<sup>th</sup> Anniversary year in 2008 which will provide a strong base for our work next year:

We were selected as one of two planning consultants to the recently formed **National Commission on Fair Housing and Equal Opportunity**. The Commission is chaired by former HUD Secretaries Cisneros and Kemp, and convened by the Leadership Conference on Civil Rights, the National Fair Housing Alliance, the Lawyers Committee for Civil Rights, and the NAACP Legal Defense Fund. The purpose of the Commission is to develop a consensus report on the future of fair housing. Look for our final report in early December—just in time for the Presidential transition.

PRRAC had an important impact on the UN's 2008 review of U.S. compliance with the Convention on the Elimination of All Forms of Racial Discrimination (CERD). Our coalition report, **Unequal Health Outcomes in the United States**, brought together over 20 public health, civil rights, housing and environmental organizations and scholars in a unified statement on the causes and consequences of minority health disparities in the U.S. This human rights frame—which also looks at social and environmental factors affecting health—will continue to be an important element of the upcoming debate on health care reform.

We have continued to provide innovative technical assistance to coalitions working to support **regional school and housing desegregation** efforts in Hartford and Baltimore. In both cities, community-based coalitions have formed to support and expand the potential of desegregation lawsuits filed by the ACLU and the NAACP Legal Defense Fund.

As we celebrated our anniversary recently with many founding Board members and new friends, we were struck by the continuing relevance of PRRAC's mission, and by how much still remains to be done.

We are moving forward into 2009 with **new projects in housing, education and health**. Plus we will be renewing our **Small Grants Program**, and continuing to cover cutting-edge research and advocacy in our bi-monthly publication *Poverty & Race*.

We hope that you will consider a generous donation this year. Please send your tax-deductible donation to PRRAC, 1015 15th St. NW, Suite 400, Washington, DC 20005. Thank you for your continuing support!

Sincerely,



Philip Tegeler  
Executive Director  
ptegeler@prrac.org

(MORAL HAZARDS: Cont. from page 5)

might leave the workforce); or counted bonus income received by workers (it might not be stable); nor would it approve good housing located in poor neighborhoods (red-lining); or a mortgage where the age of the applicant and the term of the mortgage added up to more than 85 (a 60-year-old applicant could not obtain a 30-year mortgage); or applications that revealed even small problems in the applicant's credit history.

As Director of the Center for National Policy Review at Catholic University (which I founded), I undertook to assemble a group of civil rights leaders, labor union leaders, women's rights, senior citizen leaders and consumer right leaders at a press conference, co-sponsored by the Leadership Conference on Civil Rights, to protest the proposed FNMA policy. Soon thereafter, Fannie Mae withdrew its

proposed policy. No one can say with a straight face that issuing mortgages in any of the above circumstances led to destabilizing the housing market.

Similarly, my organization sued the federal regulatory agencies on behalf of about a dozen public interest groups to get them to prevent discriminatory practices. We won a settlement that required the federal agencies to set up civil rights offices and use their ex-

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**Too little effective supervision, not too much regulation, caused the instability.**

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amination process to detect discrimination.

All of these community reinvestment and anti-discrimination initiatives led to modest gains by minorities in the acquisition of housing. Their failure to accomplish more was not, as

conservative pundits and legislators would have it, due to any unsoundness in the policies, but rather to the fact that they were dealing by modest means with a deep-seated history of discrimination.

It was not until many banks and savings and loans fled the mortgage field and subprime lenders took over that the market went wild. It was not too much regulation that caused instability but too little effective supervision.

Now, in the face of the financial crisis, we are being told by conservatives that policies that would restore home loans to hard-working people of modest means would create a "moral hazard," encouraging irresponsible borrowing and lending. The true "moral hazard" would be to deny people opportunities for purchasing a place in society that others have long enjoyed. □

## New Online Resource

Visit [Integrationagenda.org](http://Integrationagenda.org) is a new "collaborative effort to develop and execute a comprehensive agenda for residential integration." The initiative, joined by sister organization MoveSmart.org, grew out of a recent conference sponsored by the Institute of Government and Public Affairs at the University of Illinois at Chicago and the Jane Addams Hull House Association. Integrationagenda.org plans a "forward-looking agenda that focuses on research, policies, and programs that move beyond anti-discrimination enforcement to examine the other barriers to integration." For more information, go to [www.integrationagenda.org](http://www.integrationagenda.org).

(STRUCTURAL RACISM: Cont. from p. 1)

pediments that hamper their ability to fulfill their governmental responsibilities to their citizens.

At various times, the federal government has forcibly removed Native people from their homelands to reservations; divested Native people of millions of acres of valuable land filled with natural resources; required generations of Indian children to attend residential boarding schools far from their homes; passed legislation authorizing the termination of more than 100 tribal governments; forced tribal governments to adopt unfamiliar and inappropriate governance structures; and initiated a large-scale effort to relocate Native people from their tribal communities to urban areas. These policies had, as their basis, a prevailing view of the inferiority and incapability of Indian people in managing their own affairs and economic assets, and a goal of assimilation into the dominant, or "white, Anglo-Christian" culture. The lasting impact of these federal policies on tribal communities cannot be overstated.

Given these structural barriers and the resultant devastating conditions, it would be easy to let a sense of hopelessness overwhelm efforts for positive change in Native communities. Yet starting in the new era of self-determination in the 1960s and growing to the present day, tribal leaders are forging a new path to break down the pillars of structural racism that diminish op-

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**One cannot overlook the racial basis of many policies of colonialism and paternalism that are the hallmarks of federal-Indian relations.**

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portunities for their peoples. Building strong foundations of tribal governance through systemic reform, leadership development and citizen engagement is a growing movement in American Indian communities today. Overcoming centuries of colonialism and paternalism will not be easy or quick—but the alternative cannot be considered. □

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# The Cobell Trust Land Lawsuit

by Justin Guilder

*Cobell v. Kempthorne* (Dirk Kempthorne, the current Secretary of the Interior) is one of the nation's more complex, long-running and important lawsuits, seeking justice for a class of American Indians who beneficially own allotted trust land. The trust assets include oil, natural gas, timber, minerals, land leases, grazing leases, etc. The geographical area covered by these trust revenues stretches all across the Western U.S., from Oklahoma to Montana to California to Arizona and everywhere in between. The land was the subject of the 1887 Dawes Act, which broke up reservations and gave individual Indians their own land in order to assimilate the Indians into white culture by destroying their sense of tribal (community) property and instilling a sense of self (individual) ownership.

## The Background

In 1996, five Indians filed a complaint in the U.S. District Court for the District of Columbia on behalf of themselves and all other individual Indian trust beneficiaries (over 500,000 in all), alleging the federal government had breached its fiduciary obligations, claiming that the government destroyed critical records, failed to account to trust beneficiaries, and either lost trust assets or converted them to government use. Over the next three years, the district court certified the case as a class action, issued many opinions and, after conducting a lengthy trial, concluded that the federal government had failed to discharge its fiduciary duties and was in breach

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of trust. In 2001, the Court of Appeals for the District of Columbia Circuit generally affirmed and recognized that the individual Indian trust that Congress created over 100 years ago had been mismanaged nearly as long.

Plaintiffs and defendants battled over many issues over the next five years. During these years, mediation occurred, yet the government never offered to settle the lawsuit at any price, rejecting every proposal to settle the case made by plaintiffs and by mediators. Extraordinarily, two pre-

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**Plaintiffs were awarded \$455.6 million of undisbursed trust funds.**

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vious Secretaries of the Interior have been held in contempt by the district court.

On August 7, 2008, Judge James Robertson of the U.S. District Court for the District of Columbia issued the latest opinion in *Cobell v. Kempthorne* ("*Cobell XXI*"—there have been so many major decisions—and minor ones—in this case that the courts have begun numbering the major ones for identification purposes). This most recent decision, which follows on the heels of a January 30, 2008 decision in which the court concluded that the historical accounting of all individual Indian trust funds was impossible, awards the plaintiff class in restitution from defendants \$455.6 million of undisbursed trust funds. Although the court in *Cobell XXI* determined that the plaintiff class is entitled to recover their own undisbursed trust funds, several significant legal errors exist; the plaintiff class is in the process of seeking appellate review of those issues.

## Appellate Review

Plaintiffs are challenging (at least) the following three paramount ques-

tions of law contained in *Cobell XXI*: (1) Although the government rendered impossible its declared accounting duty, the court held that it is unfair to hold the government accountable to the plaintiff class in accordance with traditional trust law, despite the absence of Congressional limitations on either the government's accounting duty or its accountability for breach of such duty; (2) The court held that the government has not waived its immunity under 5 U.S.C. § 702 with respect to a claim for specific relief for interest that has accrued on plaintiffs' trust funds, notwithstanding an express statutory trust duty to pay such interest; and, (3) The court held that funds expressly held in trust by the government for the benefit of individual Osage Tribe members of the plaintiff class are not recoverable if held in an account not expressly designated as an individual Indian trust account.

First, the district court concluded that it would be unfair to invoke traditional trust law presumptions and adverse inferences against the government as trustee that ordinarily apply where, as here, the trustee has destroyed, lost and compromised records essential to a complete and accurate accounting, because, in the district court's opinion, unique characteristics of the Individual Indian Trust "temper the application of ordinary trust law." *Cobell XXI*, 2008 WL 3155157, at \*24. The district court's ruling that the government as trustee is not obligated to prove or justify disbursements that it claims it has made from the IIM (Individual Indian Money) Trust and that traditional presumptions and adverse inferences do not apply to the government is inconsistent and in conflict with controlling Supreme Court and Circuit law, as well as governing trust law. The government's trust duties are not diminished by the unique qualities of the IIM Trust, because Congress has enacted no legislation that expressly, or by necessary implication,

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(COBELL: Continued from page 7)

limits such fiduciary duties and obligations. The district court's expressed concern about fairness to the government when it rejected traditional trust law presumptions and inferences is unprecedented and in conflict with controlling law.

Indeed, Supreme Court and Circuit

precedent make clear that traditional trust principles apply to the government's management of the IIM Trust notwithstanding its unique qualities. In *Mitchell v. United States*, 463 U.S. 206, 225 (1983), the Supreme Court held that traditional trust duties and ordinary incidents of trusteeship apply to the IIM Trust because the government exercises complete control

over Individual Indian Trust lands and trust revenue solely for the benefit of the plaintiff class. District of Columbia Circuit law is in accord. A trustee must show how the trust assets and funds entrusted to them have been administered or applied. And if full and accurate accounts have not been kept, all presumptions are adversely indulged, and all obscurities and doubts are to be taken most strongly against them. Plaintiffs, therefore, are challenging the court's conclusion that the presumptions typically utilized in trust cases do not apply to this case because of the unique nature of the trust.

Second, the court held that enforcement of 25 U.S.C. § 4012—which requires the Secretary of the Interior to pay interest “to an individual Indian in full satisfaction of any claim . . . for interest on amounts deposited” where the claim is identified

## Tribal Self-Government in the United States

by John Dossett

More than 560 federally-recognized Indian Nations (variously called tribes, nations, bands, pueblos, communities, native villages) exist in the United States. Some 226 of these are located in Alaska; the rest are located in 34 other states. Indian Nations are ethnically, culturally and linguistically diverse.

Sovereignty is a legal word for an ordinary concept—local self-government. The United States Constitution recognizes that Indian Nations are sovereign governments, just like Canada and California. Hundreds of treaties, the Supreme Court, the President and the Congress have repeatedly affirmed that Indian Nations retain their inherent powers of self-government. These treaties and laws have created a fundamental contract between Indian Nations and the United States. Indian Nations ceded millions of acres of land that made the United States what it is today, and in return received the guarantee of self-government on their own lands. The treaties and laws also provide for federal assistance in ensuring the success of tribal govern-

ments, much as the federal government assists state governments.

Tribal self-government serves the same purpose today as it always has. It empowers Indian Nations to remain viable as distinct groups of people. Tribal cultures enrich American life, and tribal economies provide opportunities where few would otherwise exist. Tribal governments provide a broad range of governmental services on tribal lands, including education, law enforcement, justice systems and environmental protection, and provide basic infrastructure such as roads, bridges and public buildings. Tribal governments and state governments have a great deal in common, and there is often far more cooperation at the local level than there is conflict.

The status of Indian Nations as a form of government is at the heart of nearly every issue that touches Indian Country. Self-government is essential if tribal communities are to continue to protect their unique cultures and identities. However, too few people are aware of the history and purpose of tribal self-government. The great challenge for Indian Nations, as it is for all of the allies in the fight against racism and poverty, is to build understanding of history and legal rights as we address economic and social problems. □

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**The district court concluded that the federal government had failed to discharge its fiduciary duties and was in breach of trust.**

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through “a reconciliation process of individual Indian money accounts”—is not specific relief within the waiver of immunity in 5 U.S.C. § 702. This ruling not only conflicts directly with Supreme Court precedent, but with the law of the *Cobell* case; the D.C. Circuit has already explained that the plaintiff class is entitled to recovery of interest for any delay in payment. *Cobell v. Norton* (“*Cobell XIII*”), 392 F.3d 461, 468 (D.C. Cir. 2004). Plaintiffs are deeply troubled by the court's blatant disregard for such controlling precedent.

Third, the district court rejected the arguments of both the plaintiffs and the Osage Tribe that individual Osage Indian trust funds collected by the government should be included in the calculation of individual Indian trust revenue, and thus in the calculation of a remedy to the extent the funds remain undisbursed. The court's sole basis for that conclusion is the fact that the gov-

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ernment contends that individual Osage Indian trust revenue was deposited into a “tribal” rather than an IIM account. Plaintiffs contend that the particular Treasury account holding individual Indian trust moneys is irrelevant to whether it constitutes IIM funds for purposes of this action. The exclusion of the individual Osage revenue had a significant adverse impact on the restitution calculation.

## Next Phase

Plaintiffs recently filed briefs with the Court of Appeals for the District of Columbia Circuit seeking immedi-

ate appellate review of these three issues. It is important to resolve these legal issues regarding the exclusion of class members and trust revenue before significant time and money are expended on notice to beneficiaries and a plan for distribution. Plaintiffs hope that the Court of Appeals reverses the lower court’s rulings and that this case may move forward to a fair and expeditious resolution. Individual Indians have faced significant problems throughout the 120-year history of this trust and, unfortunately, justice is still years away. That is, of course, if it can ever be attained. □

## Thank you for your generous contributions to PRRAC!

Joel Blau, Hester Eisenstein and Michael Tanzer, Roger and Joy Floyd. Henry Freedman, Eric and Katharine Kravetz, Peter and Frances Marcuse, Demetria Lynn McCain, Florence Wagman Roisman, Gwen Urey

## Joint Resolution of Apology to Native People

by John Dossett

Over the past several sessions of Congress, several Senators and Representatives have introduced a Congressional Resolution “to acknowledge a long history of official depredations and ill-conceived policies by the United States Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States.” Senator Sam Brownback, the conservative and strongly Christian Senator from Kansas, has been one of the most outspoken proponents of the apology resolution and introduced the first version (S. J. RES. 37) during the 108th Congress.

The Apology Resolution references the historical importance of tribes in the United States and acknowledges that Native people suffered cruelly as a result of the United States’ reservation policy and military massacres. In particular, the Resolution lists such events such as the Trail of Tears, The Long Walk, the Sand Creek Massacre in 1864 and the Wounded Knee Massacre in

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1890. The Resolution acknowledges the resilience and unique nature of Native Peoples’ cultures; and that Native Peoples’ creator has endowed Native People with certain inalienable rights.

The National Congress of American Indians has worked with Congressional leadership to analyze the impact of the Apology Resolution. NCAI solicited responses to the proposed language and facilitated discussion among tribal leadership and Congress on the issue. Tribal leadership across Indian Country has offered a variety of responses to the Apology Resolution.

Some tribal leaders are in favor of the Resolution, believing that an apology would begin a process for reconciliation for past injustices, offering a way to move past historical wrongs that linger in Native communities and refocus on the future. Others tribal leaders believe that an apology must be accompanied by actions to repair the wrongs. “Sorry we stole your land, but we are keeping the land” isn’t much of an apology. The federal government continues to fiercely resist a settlement for mismanagement of Indian trust funds [see accompanying article on

*Cobell lawsuit*]; continues to underfund tribal health care and education; and has done little to restore tribal lands or support economic development. Tribes are denied the ability to develop an equitable tax base necessary for infrastructure and services, similar to state and local governments, and the Supreme Court continues to chip away at tribal jurisdiction at every opportunity.

In late 2008, the Senate was considering a reauthorization of the Indian Health Care Improvement Act that would have done much to modernize reservation health care. The Apology Resolution was attached to the health care bill, but so was a meaningless and politically charged amendment on abortion. (All federal spending on abortion is already prohibited by the Hyde Amendment.) As intended, the abortion amendment became a flash point for election year politics, and the critical Indian health care bill and the Apology Resolution failed to move through the House of Representatives. In this environment, it is difficult for tribal leaders to see that an apology by a majority in Congress is sincerely intended. □

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# Housing America's Native People

by Wendy L. Helgemo

The sun shines most days of the year on the adobe homes of a Pueblo outside of Albuquerque, New Mexico. Some have no running water. Some have foundation falling away, letting daylight in through the cracks. Some are bright, sprawling ramblers—all new construction.

A thunderstorm rolls in over a green valley in southeastern Montana. A modern, but modest, house stands across from a small church. It is made from straw bale technology and is heated by solar energy. Another home has cold wind blowing through plastic sheeting over where the glass window panes should be. An old wood burning stove is used for heat.

Each of these places someone calls home. While there is a supply of safe, sanitary and adequate housing stock in “Indian Country,” housing in Native American communities is still far more substandard than for the rest of the country. Things are changing, but some say Third World conditions exist right here in America.

## Housing in Indian Country

After two centuries of U.S. federal policy, Indian Country is comparatively underdeveloped to an alarming degree. An estimated 200,000 housing units are needed immediately in Indian Country, and approximately 90,000 Native families are homeless or under-housed. Overcrowding on tribal lands is almost 15%, and 11% of Indian homes lack complete plumb-

ing and kitchen facilities; less than half of all reservation homes are connected to a public sewer. Unemployment rates in Native American communities average 15%, and in some areas it is as high as 80%. Because most American Indian reservations and Alaska Native communities are in geographically remote and rural areas, building homes is an extremely costly endeavor and one reason for the high cost of housing development in Native communities. A well-built and maintained road system, housing, electricity, wastewater and land improvements all contrib-

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## **Housing in Native American communities is far more substandard than for the rest of the country.**

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ute the necessary foundation for economic growth, increased safety and improved quality of life for Native people.

## Overview of Federal Housing Programs for Native Americans

What has become the leading source of capital for housing in Indian Country is the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), the major federal law relating to Native American housing and community development. NAHASDA has opened the door for American Indian tribes and Alaska Natives to improve tribal capacity and increase tribal decision-making in the housing arena. NAHASDA also has enabled greater tribal participation in the development of federal regulations through the negotiated rule-making process and has spurred housing development through the leveraging of federal dollars.

Federal housing programs for

American Indians, Alaska Natives and Native Hawaiians (“Native Americans”) are administered by the U.S. Department of Housing and Urban Development (HUD). Within HUD, the Secretary, operating through the Office of Native American Programs (ONAP), carries out the United States’ trust responsibility to Indian tribes and Indian people by improving their housing conditions and socio-economic status.

Other federal programs in the Departments of Agriculture, Veterans Affairs, Health, and Interior also have components that serve tribal housing needs.

## The Native American Housing Assistance and Self-Determination Act

The *Native American Housing Assistance and Self-Determination Act of 1996* (as amended, Pub. L. 104-330), as noted above, is the main source of legal authority under which the United States provides housing and housing-related programs for Native Americans. Enacted in 1996, NAHASDA combined scattered federal public housing programs into a consolidated block grant to better serve the unique needs of Native American communities. NAHASDA established the Indian Housing Block Grant (IHBG) to provide direct federal assistance to Indian tribes to carry out affordable housing activities. Prior to NAHASDA, tribes, through tribal housing authorities or departments, operated housing programs under the 1937 Housing Act, the first law in which Congress addressed the housing needs of low-income Americans. Notably, tribes had to wait until 1961 to become eligible for assistance and housing programs administered by HUD. Currently, almost 300 tribal housing authorities manage anywhere from a few hundred homes to thousands of homes in Indian Country.

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Wendy Helgemo (*whelgemo@NAIHC.NET*), a member of the Ho-Chunk Nation, a federally-recognized Indian tribe in Wisconsin, has served as the Director of Governmental Affairs at the National American Indian Housing Council in Washington, DC since 2006.

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### ***The Indian Housing Block Grant***

The Indian Housing Block Grant (IHBG) is the single largest source of capital made available by the United States for housing development, housing-related infrastructure, and home repair and maintenance in Indian Country. Since FY1998, more than \$7 billion in federal housing assistance has been invested in Native American communities for purposes of making downpayments on homes, making monthly rents, helping with rehabilitation and building new housing units. Prior to NAHASDA implementation, an estimated 2,000 units a year were being built, whereas over 6,000 units were built in NAHASDA's first year alone.

### ***Indian Community Development Block Grant***

The Indian Community Development Block Grant (ICDBG) is a direct grant program for community development in Indian and Alaska Native Communities. Community development includes decent housing, a suitable living environment and economic opportunities, primarily for low- and moderate-income persons. Eligible grantees are any Indian tribe, band, group or nation or Alaska Native village. Specifically, ICDBG funding can be used for housing (new construction and rehabilitation), community facilities and economic development. Ninety-five percent of the grant funds are awarded on a competitive basis. The remaining 5% is awarded on a non-competitive, first-come/first-served basis to eliminate problems that pose an imminent threat to public health or safety.

### ***Title VI Tribal Housing Activities Loan Guarantee Program***

The Title VI Tribal Housing Activities Loan Guarantee Program (Title VI) provides the backing of a federal guarantee on loans to Indian tribes from private lenders or investors. Title VI loans finance eligible affordable housing activities such as housing assistance, housing development, housing services, housing management services, crime prevention and safety ac-

tivities, and model activities. Indian tribes pledge future IHBG funds as security for repayment of Title VI loan obligations.

An amendment to Title VI establishes in 2009 a demonstration program to guarantee the notes and obligations issued by Indian tribes to finance activities that are eligible for financing under the Housing and Community Development Act of 1974, including economic development, housing rehabilitation, public facilities and large-scale physical development projects.

### ***Section 184 Indian Housing Loan Guarantee Program***

The Section 184 Indian Housing Loan Guarantee Program was estab-

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## ***Almost 300 tribal housing authorities manage homes in Indian Country.***

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lished to serve the Native American homeownership market, which is underserved due to the trust status of Indian lands. Indian tribes and individual Native Americans are eligible for Section 184 loans. Loans can be for new construction, rehabilitation of an existing home and refinancing. The default rate is less than 1%.

### ***Training and Technical Assistance***

NAHASDA authorizes appropriations for assistance to a national organization representing Native American housing interests in order to provide training and technical assistance to Indian housing authorities and tribally designated housing entities. Tribal housing authorities rely on training and technical assistance to effectively implement their housing programs. Training and technical assistance has proven to be an effective and invaluable tool for capacity-building for tribes and their housing authorities.

Since the 1996 enactment of NAHASDA, the National American Indian Housing Council (NAIHC) has served as the lead training and technical assistance provider in Indian Coun-

try. For nearly 35 years, NAIHC has assisted tribes with their primary goal of providing housing and community development for Native American communities. NAIHC consists of 270 members, representing 463 tribes and the Department of Hawaiian Home Lands.

This assistance has come in the form of on-site technical assistance; tuition-free training classes provided by housing professionals in the employ of NAIHC; scholarship programs that help offset the cost to tribal-designated housing entity employees to attend professional training sessions; and NAIHC's Leadership Institute, a low-cost professional certification course for housing professionals who work in Indian housing development.

### ***The Native American Veterans Home Loan Program***

Within the U.S. Department of Veterans Affairs, the Native American Veterans Home Loan Program serves eligible Native-American veterans who wish to purchase, improve or construct a home on tribal lands. VA direct loans are generally limited to the cost of the home, or the Federal Home Loan Mortgage Corporation single-family conforming loan unit, whichever is less. The maximum loan amount may not exceed VA's estimate of the reasonable value of the property to be purchased.

### ***Indian Health Service Sanitation Facilities***

Within the Department of Health and Human Services, the Indian Health Service (IHS) Division of Sanitation Facilities Construction is charged with providing Native American homes and communities with essential water supply, sewage disposal and solid waste disposal facilities.

Housing development in Native American communities involves more than simply building dwelling units. Community development often starts with the design and construction of basic physical infrastructure and  
*(Please turn to page 12)*

(HOUSING: Continued from page 11)

amenities that most Americans take for granted. This includes water and wastewater infrastructure, electricity, heat and cooling systems, and a host of other elements. Recurring challenges to the physical infrastructure issue involve access to capital and financing, conflicting statutory and regulatory provisions, and a need for comprehensive planning. Therefore, this IHS program is extremely taxed. Current appropriations language prevents IHS sanitation funds to be used in conjunction with NAHASDA funds to connect water and wastewater infrastructure to the new homes.

### HUD Rural Housing and Economic Development

While not a specific Indian program, tribes are eligible to participate in HUD's Rural Housing and Economic Development programs (RHED). RHED is another tool Native American Communities use to help build homes on isolated Indian lands. These programs serve to assist in capacity-building, fund innovative activities and provide support for new

programs. Funds are awarded on a competitive basis. The maximum award under capacity-building is \$150,000. The maximum amount awarded for housing development and economic development activities is \$400,000.

### USDA Rural Housing

Within the U.S. Department of Agriculture (USDA), Rural Housing programs serve the housing needs of low-income and very low-income Americans, including Native Americans. Indian tribes can participate in the Direct Home Loan Program (Section 502) and the Rental Housing Direct Loan Program (Section 538). Section 502 loans are primarily used to help

***Some say Third World conditions exist right here in America.***

low-income individuals or households purchase homes in rural areas. Section 502 funds can be used to build, repair, renovate or relocate a home, or to purchase and prepare sites, including providing water and sewage

facilities. Section 538 loans are for new rental housing and acquisition with rehabilitation of existing properties. The purpose of the Section 538 program is to increase the supply of affordable rural rental housing, through the use of loan guarantees that encourage partnerships between the Rural Development program, private lenders and public agencies. Indian tribes can use these programs for housing and related infrastructure development in conjunction with HUD and Bureau of Indian Affairs funding.

### The Housing Improvement Program (HIP)

Within the U.S. Department of the Interior, the Bureau of Indian Affairs (BIA) is authorized to assist Indian tribes with housing improvement. In 1965, the Housing Improvement Program (HIP) was established pursuant to the Snyder Act of 1924 (25 U.S.C. §13) to provide grants of modest amounts (often not more than \$1,500) for home rehabilitation, renovation and repair. As the waiting lists for new homes continue to grow and housing stock becomes older and dilapidated, HIP strives to ensure that existing housing stock remain safe, healthy and habitable. According to the BIA, HIP assists 375 Indian families annually. The HIP serves a valuable role in keeping existing housing stock in habitable conditions for the neediest within the Indian communities: Indian elders and low-income people.

### Low-Income Housing Tax Credits

One way tribes can spur new housing development is through leveraging the IHBG. In 1986, the Congress changed the Internal Revenue Service Tax Code to encourage homeownership through the creation of low-income housing tax credits (LIHTC). Tribes can use IHBG funds for project-based or tenant-based rental assistance in LIHTC projects as an eligible affordable housing activity.

While word about LIHTC leverag-

## New Witt Internship Award

PRRAC is pleased to announce the winner of the 2008 Edith Witt Internship Award: Patricia Johnson and the organization she will be working with, First Place for Youth, headquartered in Oakland, Calif., with other offices around the Bay Area.

Ms. Johnson is Founder and Executive Director of the Game Theory Academy, and prior to that worked for Pacific News Service/New American Media in San Francisco, after receiving her MBA from the Yale School of Management. Her goal in founding the Academy is to increase the economic savvy of at-risk youth through financial literacy programs designed specifically for that popu-

lation group. She has teamed up with MBA alumni and high school teachers to develop a pilot curriculum, which she will test with her partner organization, First Place for Youth, founded a decade ago to ensure that all foster youth have the opportunity to experience a safe, supported transition from foster care, via a housing program, an academic enrichment program, counseling, a youth community center, collaboration with other Bay Area agencies, and community education.

She and the Academy are reachable at [trish@gametheoryacademy.org](mailto:trish@gametheoryacademy.org), [www.gametheoryacademy.org](http://www.gametheoryacademy.org); First Place for Youth is reachable at 510/272-0979, [www.firstplaceforyouth.org](http://www.firstplaceforyouth.org).

ing is getting around Indian Country, only a small number of tribes have undertaken LIHTC projects. Education and capacity-building of tribal housing authorities are key in increasing usage of the program. There is a clear need to increase the training opportunities for housing authorities in the area of LIHTC program development. This will open up more doors to opportunities to work with investors, program developers, compliance experts and consultants, and state Housing Finance Agencies and Housing Departments.

## Financial Education

Tribal economies can be strengthened through increased financial education programs and through the development and promotion of asset-building rather than asset-stripping in Native communities. Since access to capital is an ongoing obstacle to housing and community development in Indian Country, the pervasiveness and impact of predatory lending in all its iterations has destructive consequences in Native communities. Development of credit programs and increasing borrowing opportunities through Tribal Community Development Financial Institutions (CDFIs) will reduce the demand for predatory lending in tribal communities. Financial education is also a key to combating predatory lending and needs to be culturally-specific and tailored to Native communities. Asset development, including tribal Individual Development Accounts and other forms of matched savings accounts, should be emphasized to change the landscape from asset-stripping to asset-building.

## Recommendations for a New Congress and Administration

- Restore the focus of federal housing and housing-related programs and services to one respecting the hallmark of Indian Self-Determination;

- Ensure meaningful consultation with tribal governments and housing authorities in advance of the development of relevant regulations and policies;
- Restore to the federal agencies an appropriate role in terms of oversight and monitoring of tribal housing programs and services;
- Re-institute a vigorous negotiated rule-making procedure with tribal governments and housing authorities so that the impacts and consequences of proposed federal actions can be fully debated and agreed to prior to implementation;

## **An estimated 200,000 housing units are needed immediately in Indian Country.**

- Improve housing development and leveraging capacity within Indian Housing Authorities, as distinguished from simply improving housing management skills according to federal guidelines;
- Increase federal funding levels for Native American housing, with a particular emphasis on achieving parity with jurisdictions of comparable size;
- Assist Indian tribes in the construction and maintenance of physical infrastructure, including methods of financing similar to those available to state and local governments;
- Ameliorate high energy and other costs of construction due in large part

to isolated locations;

- Improve eGrant submission issues, particularly at HUD, as the current system negatively impacts tribal communities;
- Collaborate with tribal governments and housing authorities to initiate and develop comprehensive and effective risk management and other self-insurance programs and services related to Native American housing and related assets and property;
- Ensure a Native presence at White House and Cabinet-level positions—e.g., HUD’s Assistant Secretary for Indian Housing and Community Development.

## Conclusion

America’s First Americans—Native Americans—have been experiencing their own housing and economic crises since the era of Treaty-making and have an immediate need for culturally-relevant, decent, safe, sanitary and affordable housing. The lack of significant private investment, functioning housing markets and the dire economic conditions most Indian communities face mean that federal dollars make up a significant amount of total housing resources for Native people. We must continue to work to improve housing conditions in Indian Country by deconstructing remaining barriers to Indian tribes which endeavor to develop their communities and economies and improve the lives of their People. □

## Resources

National American Indian Housing Council: [www.naihc.net](http://www.naihc.net)  
 AMERIND Risk Management: [www.amerind-corp.org](http://www.amerind-corp.org)  
 U.S. Housing and Urban Development Office of Native American Programs: <http://www.hud.gov/offices/pih/ih/codetalk/onap>  
 Corporation for Supportive Housing: [www.csh.org](http://www.csh.org)

National Congress of American Indians: [www.ncai.org](http://www.ncai.org)  
 Native Financial Education Coalition: [www.nfec.info](http://www.nfec.info)  
 National Tribal Environmental Council: [www.ntec.org](http://www.ntec.org)  
 First Nations Oweesta Corporation: [www.oweesta.org](http://www.oweesta.org)

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# Health Care and Indigenous Peoples\* in the United States

by Michael Yellow Bird

The health disparities of Indigenous Peoples in the United States are numerous and pressing, and offer a significant policy challenge to the next Congress and Presidential Administration. Both must be committed to honoring the long-standing treaty obligations that the United States has to provide adequate health care services to Indigenous tribal nations. The United States has a legal responsibility to provide health care to Indigenous Peoples. In fulfilling this obligation it must ensure that there is sufficient funding for tribal and Indian Health Service programs, staffing, technology, research and facility construction, modernizing and maintenance.

## Who are Indigenous Peoples?

In the contiguous 48 United States and Alaska, many Indigenous Peoples are mistakenly called *Indians*, *American Indians* or *Native Americans*. They are not Indians or American Indians, because they are not from India. They are not Native Americans, because Indigenous Peoples did not refer to these lands as America until Europeans arrived and imposed this name. Indian, American Indian and Native American are colonized and inaccurate

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\* I do not use the terms Indian, American Indian or Native American to describe the Aboriginal Peoples of the United States. I only use them I am directly quoting another source I am citing. For reasons of clarity, accuracy and consistent with United Nations definitions, I prefer to use the term Indigenous Peoples.

labels that subjugate the identities of Indigenous Peoples. While many Indigenous Peoples still prefer to use these former labels, a growing number want to be identified according to their own tribal nation or affiliation.

Indigenous Peoples are diverse populations who reside on ancestral lands, share an ancestry with the original inhabitants of these lands, have distinct cultures and languages, and regard themselves as different from those

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***The United States has a legal responsibility to provide health care to Indigenous Peoples.***

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who have colonized and now control their lands and lives. As of July 1, 2007, the U.S. Census Bureau estimated the population of Indigenous Peoples, including those of more than one race, to be 4.5 million, or 1.5 percent of the total U.S. population. Of this group, 2.9 million identified themselves only as “American Indian” or “Alaska Native.” There are more than 560 federally-recognized Indigenous tribes in the United States. Approximately half of the Indigenous population resides on or near federal “Indian” reservations, while the remaining half reside in urban areas.

Not much is known about the health circumstances of urban natives. One major study completed by the Urban Indian Health Commission in 2005 reported that cardiovascular diseases, diabetes and depression afflict urban Indigenous Peoples in disproportionate numbers.

## The Legal Basis for Indigenous Health Care

From 1778 to 1871, the Indigenous nations, of what is now referred to as

the United States of America, negotiated and signed nearly 400 treaties with this nation. During this century of treaty-making, the U.S. government agreed to provide, among other things, health services to Indian tribes in exchange for billions of acres of land, natural resources, friendship and peace. In a confirmation of the treaty process, the legal basis to provide health care was accepted by the U.S. and first articulated in *The Snyder Act of 1921*. This legislation enabled the U.S. Congress to authorize the Bureau of Indian Affairs (BIA) to “expend such moneys as Congress may from time to time appropriate...for the relief of distress and conservation of health.” In 1955, health services for Indigenous Peoples were transferred from the BIA to the Indian Health Service (IHS), which became part of the Public Health Service (PHS). The Indian Health Service is now a program within the U.S. Department of Health and Human Services that is responsible for providing health services to Indigenous Peoples who are members of federally-recognized tribes in the United States.

*The Indian Health Care Improvement Act, P.L. 94-437*, (IHCA) was first enacted in 1976 as the next legal provision of health care services to Indigenous Peoples to address long-standing health care disparities. The major aims of this legislation were to increase the number of health professionals serving Indigenous communities; allow services to urban populations; remedy health facility problems; and to ensure access to other federal health care such as Medicaid and Medicare. The IHCA has been reauthorized five times, adding a number of amendments each time. In the original findings of this legislation, the U.S. Congress agreed that:

Federal health services to maintain and improve the health of the

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Indians are consonant with and required by the Federal government's historical and unique legal relationship with, and resulting responsibility to, the American Indian people, . . .

A major national goal of the United States is to provide the quantity and quality of health services which will permit the health status of Indians to be raised to the highest possible level and to encourage the maximum participation of Indians in the planning and management of those services, . . .

The unmet health needs of the American Indian people are severe and the health status of Indians is far below that of the general population of the United States.

## Another Reality

Some progress has been made in upgrading the health of Indigenous Peoples that can be attributed to the actions of U.S. federal government. However, much remains to be done. Despite the compelling and binding language in the IHCA, the U.S. has rarely lived up to its promises to provide sufficient, proper and necessary health care to Indigenous communities. Once the U.S. got all the lands and resources it needed from Indigenous Peoples, it has maintained a steady path of insufficient, marginally effective assistance in raising the health status of Indigenous Peoples "to the highest possible level." This negligence, self-serving behavior and dishonesty are transparent and have taken an enormous toll on the health of our peoples.

The health of Indigenous Peoples seriously lags behind the rest of the U.S. population in several critical areas. This is especially true for those who reside on or near "Indian" reservations and depend on the U.S. federal government to provide health services to them through the Indian Health Service. Indeed, for many of us who grew up on our reservations, we have had an up-close view of the struggles, hardships and suffering that have

gripped lives of our friends, relatives and members of our tribes due to insufficient health services. While many have been able to overcome challenging health circumstances, many have experienced more than their share of difficulties in achieving and maintaining a sufficient level of health. While health statistics show that various groups of Indigenous Peoples carry an enormous burden of illness, statistics rarely give true insights into the pain, hopelessness and distress that is felt and shared by those who live in this reality.

For many years, I witnessed the sorrow of death and the despair of disability within my own tribal community. Many needlessly succumbed to

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### ***There exist widespread epidemics of depression, anxiety and other mood disorders.***

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numerous preventable diseases such as diabetes, alcoholism, suicide, homicide, depression, obesity, substance abuse, hypertension, heart disease and cancer, to name a few. Because of the significant loss of life among my tribe, I've learned to appreciate the "Years of Potential Life Lost" (YPLL) statistical measure that is used to calculate the total number of years lost in a community from premature death from a certain cause. While this computation yields important data, I believe that the subsequent stress and grief that lingers among our communities, due to high morbidity and mortality, is a major contributor to the continuing poor health of Indigenous Peoples.

When I was the health director for my tribe more than 20 years ago, we faced many daunting challenges. Chronic illnesses and behavioral disorders were widespread and, in many instances, deadly. Shortages in funding to deliver health services were common and often compromised the care of many of our most vulnerable citizens. The lack of competent medical personnel, substandard health care facilities, traveling long distances to

reach medical services under difficult conditions, and the absence of advanced, life-saving technologies also produced a daily hardship for our reservation communities. While some studies report that progress has been made to reduce or eliminate gaps in Indigenous Peoples' health, many communities and individuals continue to be confronted by many of the challenges we faced more than two decades ago.

## The Facts

At present, there are numerous and appalling health disparities among Indigenous Peoples that require immediate attention and resolution. A press release sent out on September 8, 2003 by the U.S. Department of Health and Human Services titled, *Eliminating Health Disparities in the American Indian and Alaska Native Community*, underscores this reality. The statement reported that death rates, due to a number of specific illnesses and disorders, were significantly higher for Indigenous Peoples than for other Americans:

- Alcoholism 770% higher
- Tuberculosis 750% higher
- Diabetes 420% higher
- Accidents 280% higher
- Homicide 210% higher
- Suicide 190% higher

In 1994, when I completed the writing of my Ph.D. dissertation, *The Use of Health Services by American Indians on Federal Indian Lands*, I referred to several of these same mortality health statistics to show the poor health of Indigenous Peoples. The data that I reported came from 1987 statistics that were collected by the Indian Health Service:

- Tuberculosis 400% higher
- Alcoholism 322% higher
- Diabetes 139% higher
- Accidents 139% higher
- Homicide 64% higher
- Suicide 28% higher

*(Please turn to page 16)*

In 2002, the National Center for Health Statistics reported that Indigenous Peoples have higher mortality rates than whites in all age categories up to age 64. The largest gap is in the 25-44 years age category: There are 227.4 deaths among Indigenous People per 100,000, versus 141.7 for whites—a 62% higher rate of death. However, in certain geographical areas, life expectancy for Indigenous men is dismal. In an investigation of mortality disparities by race and counties in the United States covering the period 1982-2001, Christopher J.L. Murray found that the lowest life expectancy for men in the United States was in South Dakota counties that had large populations of Indigenous Peoples. Those living in these areas “can expect to live 66.6 years, well short of the 79 years for low-income rural white people in the Northern Plains.” Focusing only on Indigenous men in these counties, life expectancy plummets to 58 years.

There are lapses and severely inadequate levels of funding to pay for the health needs of Indigenous Peoples. For instance, a 2003 study by the U.S. Commission on Civil Rights, titled *A Quiet Crisis*, found that “The unmet health care needs of Native Americans remain among the most severe of any group in the United States. Despite their need for health care and although there are designated health services, the monetary value of Native American care is significantly less than the average health expenditure for all Americans. The federal government’s rate of spending on health care for Native Americans is 50% less than for prisoners or Medicaid recipients, and 60% less than is spent annually on health care for the average American. IHS’ real spending per Native American, after adjusting for inflation and population growth, has fallen over time, despite funding increases.”

There are very troubling epidemics of substance abuse and dependence among Indigenous Peoples. On September 8, 2003, the U.S. Department of Health and Human Services issued a press release that identified a num-

ber of disparities within the Indigenous population:

- Rates of substance dependence and abuse among persons age 12 and older is highest among American Indians and Alaska Natives (14.1%).
- Rates of illicit drug use (10.1%), alcohol (44.7%).
- Binge alcohol use (27.9%) is among the highest in the nation.

Death due to alcohol abuse among Indigenous Peoples is overwhelming. Examining death certificates from 2001

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### **Type 2 diabetes among Indigenous children and young adults is 2.6 times the national average.**

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to 2005, the Centers for Disease Control and Prevention released a report on August 28, 2008 that found the rate of alcohol-related deaths among Indigenous Peoples was close to four times higher than that of the overall U.S. population. During this period, 11.7% of deaths, or 1,514 deaths, were alcohol-related, compared with 3.3% for the U.S. as a whole. The findings showed that 68% of the deaths were men and 66% were younger than 50 years old, and 7% were less than 20 years old.

The fact that two-thirds of the deaths involve people younger than age 50 is very troubling. Many in this group represent the next generation of elders that will *not* be lending their knowledge, presence and experience to those younger age groups who might have depended on them for learning their tribal language, culture and critical aspects of traditional leadership. The fact that such a large number are men means that many children will grow up without fathers, uncles, brothers and grandfathers who, in most tribal communities, serve as important supports and mentors.

For every 100,000 American Indian deaths, 55 involved excessive alcohol use. In the general population, exces-

sive alcohol consumption figured in 27 of every 100,000 deaths. The leading causes cited in alcohol-related deaths among Native Americans:

- Motor vehicle crashes — 27.5%.
- Liver disease — 25.2%.
- Alcohol dependence — 6.8%.
- Homicide — 6.6%.
- Liver cirrhosis — 6.2%.
- Suicide — 5.2%.

Among different age groups and tribal communities, there exist widespread epidemics of depression, anxiety and other mood disorders. Psychologists refer to depression as a whole body illness. It causes intense emotional pain, helplessness, hopelessness, loss of sleep and interest in life. It is strongly associated with suicide, thoughts of death, and chronic fatigue, sadness and negative emotions. In a 2005 report titled, *Invisible Tribes: Urban Indians and their Health in a Changing World*, it was reported that depression afflicts Indigenous Peoples in disproportionate numbers. About 30% of this population suffers with depression. Those most affected live in cities. In a national study titled, *Prevalence of depression among U.S. adults with diabetes: findings from the 2006 behavioral risk factor surveillance system*, which examined depression and diabetes, Indigenous Peoples were identified as the ethnic group having the highest prevalence rates of depression (27.8%).

Of course, diabetes presents a major problem for many communities. On a personal level, I know the disease quite well. Of my 11 brothers and 4 sisters in my family, only 5 of us are not burdened by this illness. My father died from diabetes-related complications, and my mother has lived with it for nearly 40 years. Numerous studies show that Indigenous Peoples have the highest prevalence of type 2 diabetes in the world. The incidence of type 2 diabetes is rising faster among Indigenous children and young adults than in any other ethnic population, 2.6 times the national average. In a report titled, *The Diabetes Epidemic Among American Indians and*

*Alaska Natives*, the National Diabetes Education Program, National Institutes of Health, U.S. Department of Health and Human Services, reports that about 16.5% of American Indians and Alaska Natives age 20 years and older who are served by the Indian Health Service have diagnosed diabetes.

## What is the Future of Indigenous Health?

On March 12, 2008, a U.S. House of Representative subcommittee held a hearing on President Bush's proposed 2009 Indian Health Service budget, which presented a \$21 million decrease from the 2008 budget. The chairman of the committee, Rep. Norm Dicks (D-WA), met with 30 tribal representatives who expressed concern over the budget proposal. Chairman Dicks quoted the Governor of the Pueblo of Acoma, Chandler Sanchez, stating that, "The Indian Health Service is dying a slow death from a 1,000 budget cuts." During the hearing, IHS Acting Director Robert McSwain acknowledged that the Bush cuts would severely restrict the agency's ability to meet the needs of many of its patients and would result in:

- 218,000 fewer outpatient visits
- 9,000 fewer patients receiving services from diabetes programs

- 12,465 fewer patients receiving dental services
- 1,500 fewer patients receiving mammogram screenings
- 3,000 fewer patients receiving cancer screenings

Despite numerous health disparities faced by Indigenous Peoples and a legal responsibility agreed to by the United States to meet the health care needs of these groups, the funding that has been provided to the Indian Health Service has never been adequate. Services are fragmented and mediocre; medical personnel are in short supply; facilities are outdated; technology and

### ***President Bush's 2009 proposed 2009 Indian Health Service budget was a \$21 million decrease from the 2008 budget.***

research are limited; and the patients who use this system have substantial needs, often beyond the capacity of the health care system. Long ago, Indigenous nations exchanged their lands, freedom and resources for federal promises of providing for the health of the people. However, the United States has insufficiently delivered on its promise. As a result, the health of Indigenous Peoples has suffered, especially when compared to the rest of America. As the November election

shuttles out the failed policies of the Bush Administration, let's demand that the next Congress and occupant of the White House will honor the obligations that this nation has to the health of Indigenous Peoples. □

## Resources

*A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country:* <http://www.usccr.gov/pubs/na0703/na0731.pdf>

Christopher J.L. Murray, et al., "Eight Americas: Investigating Mortality Disparities across Races, Counties, and Race-Counties in the United States," *PLoS Medicine*, Vol. 3, No. 9 (September 2006).

Indian Health Service: <http://www.ihs.gov/>

National Congress of American Indians: <http://www.ncai.org/Home.9.0.html>

Electronic Code of Federal Regulations: <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&rgn=div6&view=text&node=42:1.0.1.13.82.1&idno=42>

American Indian Health: <http://americanindianhealth.nlm.nih.gov/>

PRRAC, *Organizing to Address Minority Health Disparities: A Directory of State and Local Initiatives* (2008 Edition), available at [www.prrac.org](http://www.prrac.org)

## American Indian Boarding Schools

*The following is a Feb. 2008 Shadow Report (lightly edited) submitted as a Response to the Periodic Report of the United States to the United Nations Committee on the Elimination of Racial Discrimination. The full Report can be found at [http://www.ushrnetwork.org/files/ushrn/images/linkfiles/CERD/5B\\_American%20Indian%20Boarding%20Schools.pdf](http://www.ushrnetwork.org/files/ushrn/images/linkfiles/CERD/5B_American%20Indian%20Boarding%20Schools.pdf). See also the 2-part NPR series, May 12, 2008 ("American Indian School a Far Cry from the Past") & May 13, 2008 ("American Indian Boarding Schools Haunt Many"). See also "On the Reservation and Off, Schools See a Changing Tide," New York Times, May 25, 2008.*

### Brief History

During the 19th century and into the 20th century, American Indian children were forcibly abducted from their homes to attend Christian and U.S. government-run boarding schools

as a matter of state policy. This system had its beginnings in the 1600's when John Eliot erected praying towns for American Indians, where he separated them out from their communities to receive Christian civilizing instruction. However, colonists soon

concluded that such practices should be targeted towards children, because they believed adults were too set in their ways to become Christianized. Jesuit priests began developing schools for Indian children along the St.

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(SCHOOLS: Continued from page 17)

Lawrence River in the 1600's.

However, the boarding school system became more formalized under the Grants Peace Policy of 1869/1870. The goal of this policy was to turn over the administration of Indian reservations to Christian denominations. As part of this policy, Congress set aside funds to erect school facilities to be run by churches and missionary societies. These facilities were a combination of day and boarding schools erected on Indian reservations.

Then, in 1879, the first off-reservation boarding school, Carlisle, was founded by Richard Pratt. He argued that as long as boarding schools were primarily situated on reservations: 1) It was too easy for children to run away from school; and 2) The efforts to assimilate Indian children into boarding schools would be reversed when children went back home to their families during the summer. He proposed a policy where children would be taken far from their homes at an early age and not returned to their homes until they were young adults. By 1909, there were 25 off-reservation boarding schools, 157 on-reservation boarding schools, and 307 day schools in operation. The stated rationale of the policy was to "Kill the Indian and save the man." Children in these schools were not allowed to speak Native languages or practice Native traditions....

[The goal of the program was to] [s]eparate children from their parents, inculcate Christianity and white cultural values into them, and encourage/force them to assimilate into the dominant society. Of course, because of the racism in the U.S., Native peoples could never really assimilate into the dominant society. Hence, the consequence of this policy was to assimilate them into the bottom of the socio-economic ladder of the larger society. For the most part, schools primarily prepared Native boys for manual labor or farming and Native girls for domestic work.

The rationale for choosing cultural rather than physical genocide was often economic. Carl Schurz [a former

Commissioner of Indian Affairs] concluded that it would cost a million dollars to kill an Indian in warfare, whereas it cost only \$1,200 to school an Indian child for eight years. Secretary of the Interior Henry Teller argued that it would cost \$22 million to wage war against Indians over a ten-year period, but would cost less than a quarter of that amount to educate 30,000 children for a year. Consequently, administrators of these schools ran them as inexpensively as possible. Children were given inadequate food and medical care, and were overcrowded in these schools. As a result, children routinely died in mass numbers of starvation and disease. In addition, children were often forced to do grueling work in order to raise monies for the schools and salaries for the teachers and administrators. Overcrowding within schools contributed to widespread disease and death.

Attendance at these boarding schools was mandatory, and children were forcibly taken from their homes for the majority of the year. They were forced to worship as Christians and speak English (native traditions and languages were prohibited). Sexual/physical/emotional violence was rampant. While not all Native peoples see their boarding school experiences as negative, it is generally the case that much if not most of the current dysfunctionality in Native communities can be traced to the boarding school era.

Today, most of the schools have closed down. Nevertheless, some boarding schools still remain. While the same level of abuse has not continued, there are still continuing charges of physical and sexual abuses in currently operating schools. Because these schools target American Indians specifically, they are in violation of CERD.

## The Continuing Effects of Human Rights Violations

**Human Rights Violations:** A number of human rights violations

have occurred and continue to occur in these schools. The U.S. has provided no recompense for victims of boarding schools, nor have they attended to the continuing effects of human rights violations. The Boarding School Healing Project (303/513-5922, 605/200-0164) has begun documenting some of these abuses in South Dakota. Below are some of the violations that have targeted American Indians, constituting racial discrimination:

**Religious/Cultural Suppression:** [Because] Native children were generally not allowed to speak their Native languages or practice their spiritual traditions,...many Native peoples can no longer speak their Native languages. Survivors widely report being punished severely if they spoke Native languages. However, the U.S. has grossly underfunded language revitalization programs.

Because boarding schools were run cheaply, children generally received inadequate food. Survivors testify that the best food was saved for school administrators and teachers.

[And] according to one former BIA school administrator in Arizona: "I will say this. . . [C]hild molestation at BIA schools is a dirty little secret and has been for years. I can't speak for other reservations, but I have talked to a lot of other BIA administrators who make the same kind of charges." Despite the epidemic of sexual abuse in boarding schools, the Bureau of Indian Affairs did not issue a policy on reporting sexual abuse until 1987, and did not issue a policy to strengthen the background checks of potential teachers until 1989. The Indian Child Protection Act in 1990 was passed to provide a registry for sexual offenders in Indian country, mandate a reporting system, provide rigid guidelines for BIA and HIS [Indian Health Services] for doing background checks on prospective employees, and provide education to parents, school officials and law enforcement on how to recognize sexual abuse. However, this law was never sufficiently funded or implemented, and child sexual abuse rates are dramatically increasing in Indian

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country while they are remaining stable for the general population. Sexual predators know they can abuse Indian children with impunity....

As a result of all this abuse, Native communities now are suffering the continuing effects through increased physical and sexual violence that was largely absent prior to colonization. However, the U.S. fails to redress these effects by not providing adequate healing services for boarding school survivors.

**Forced Labor:** Children were also involuntarily leased out to white homes as menial labor during the summers rather than sent back to their homes. In addition, they had to do hard labor for the schools, often forced to do very dangerous chores. Some survivors report children being killed because they were forced to operate dangerous machinery. Children were never compensated for their labor.

**Deaths in Schools:** Thousands of children have died in these schools, through beatings, medical neglect and malnutrition. The cemetery at Haskell Indian School alone has 102 student graves, and at least 500 students died and were buried elsewhere. These deaths continue today. On December 6, 2004, Cindy Sohappay was found dead in a holding cell in Chemawa Boarding School (Oregon), where she had been placed after she became intoxicated. She was supposed to be checked every fifteen minutes, but no one checked on her for over three hours. At the point, she was found not breathing, and declared dead a few minutes later. The U.S. Attorney declined to charge the staff with involuntary manslaughter. Sohappay's mother is planning to sue the school. A videotape showed that no one checked on her when she started convulsing or stopped moving. The school has been warned for past fifteen years from federal health officials in Indian Health Services about the dangers of holding cells, but these warnings were ignored. Particularly troubling was that she and other young women who had histories of sexual assault, abuse and suicide attempts were put in these cells of solitary confinement. □

## Native Americans and Juvenile Justice: A Hidden Tragedy

by Terry L. Cross

In the United States in 2008, there are more than 560 federally-recognized American Indian tribes comprising an American Indian/Alaska Native (AI/AN) population of approximately 4 million individuals. About half this population lives on reservations, and the others live off-reservation, primarily in urban communities. The AI/AN population is young: 42%—almost 2 million—are under 19 years of age. Twenty percent (800,000) are at risk—60,000 suffer abuse or neglect each year. According to the *Youth Violence Research Bulletin*, the suicide rate for American Indian juveniles (57 per 1 million) was almost twice the rate for white juveniles and the highest for any race. In addition, 200,000 are believed to suffer from serious emotional disturbances.

American Indian youth are grossly over-represented in state and federal juvenile justice systems and secure confinement. Incarcerated Indian youth are much more likely to be subjected to the harshest treatment in the most restrictive environments and less likely to have received the help they need from other systems. AI/AN youth are 50% more likely than whites to receive the most punitive measures. Pepper spray, restraint and isolation appear to be grossly and disproportionately ap-

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plied to Indian youth, who have no recourse, no alternatives and few advocates.

In 2003, litigation over conditions in a South Dakota state training school revealed horrible abuses in the use of restraints and isolation, yet little in the way of education or mental health services. Findings also showed that Native youth were significantly over-represented in the lockdown unit and thus subject to the worst abuses. For example, one young girl from the Pine

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**American Indian youth are grossly over-represented in state and federal juvenile justice systems.**

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Ridge Reservation had been held in a secure unit within the facility for almost two years, during which time she was placed in four-point restraints while spread-eagled on a cement slab for hours at a time, kept in isolation for days and even weeks, and pepper-sprayed numerous times. This young girl, like many of the females confined at the facility, suffered from significant mental health and substance abuse issues. Due to the lack of appropriate mental health treatment and the harsh conditions in the facility, she resorted to self-harming behavior as a way to draw attention to herself, and like many of the other girls now has scars up and down her arms from cutting herself. Finally, the facility also instituted a rule that penalized Native youth for speaking in their Native language, and several were placed on lockdown status for speaking Lakota to each other.

There is a growing awareness that many tribes' children and youth are being taken outside the care, custody and control of their families, commu-

*(Please turn to page 20)*

nities and tribal government, and that many are suffering from extreme physical, mental and emotional abuse in the process.

## Exploratory Qualitative Research Results

Beginning in 2003, the National Indian Child Welfare Association (NICWA) has conducted exploratory research to identify and highlight the issues of American Indian children and youth with regard to juvenile rights and justice. What we have learned can be best summarized in the words of some of the focus group participants:

“[American Indian]... youth are ending up in adult facilities because there are no separate facilities for young people in some communities, despite laws forbidding contact between minors and adults in correction facilities;... sometimes even parents are not notified when young people are taken into custody.” (2002 NICWA leader focus group)

“Indian status offenders are often treated as if they were violent offenders;... a young woman (under 16 years of age) was charged with fourth degree assault for spitting on a nurse.” (2002 NICWA provider focus group)

“State and county workers act discriminatorily to both tribal social service workers and young Indian clients.” (2002 NICWA provider focus group)

“Children are often placed in correctional facilities for inappropriate reasons (truancy, parents’ behavior and overdoses).” (2003 NICWA provider focus group)

“I’m proud and sad to be Indian at the same time... It feels really

**We are grateful to Sarah Hicks and Peter Morris of the National Congress of American Indians for their assistance in putting this issue together.**

bad seeing people drinking and dying... I blaze home to Browning for a funeral every other month.” (2003 NICWA youth focus group)

Participants felt that the kids who most needed help, the kids who made bad choices already (“bad kids”), were likely to be left out. One participant succinctly captured the essence of this concern: “Yeah, half the people have problems from the life they chose, but what challenges you to change if no one gives you a chance?” (2003 NICWA youth focus group)

“Children are often taken out of the community and offered non-culturally-specific/relevant services as individuals (not services

## **Many tribes’ children and youth are taken outside the care, custody and control of their families, communities and tribal government.**

in conjunction with their family) even when tribal services are available.” (2003 NICWA provider focus group)

## **Disparate Rates and At-risk Youth: Sparse Data**

In addition to qualitative research, NICWA has also conducted reviews of the literature to determine the level of attention these issues are receiving in research and in the literature. Sparse data exist, but the data that are available point to a serious problem that is not currently being addressed.

- The Bureau of Justice Statistics publication, *American Indian Crime*, reported: “On a given day, 1 in 25 American Indians age 18 or older is under the jurisdiction of the criminal justice system—2.4 times the per capita rate of Whites ...,” and that “Nearly a third of all American Indian victims of violence are between ages 18 and 24. This

group of American Indians experienced the highest per capita rate of violence of any racial group considered by age—about 1 violent crime for every 4 persons of this age.”

- Native American youth represent 1% of the U.S. population, yet they constitute 2-3% of the youth arrested for such offenses as larceny-theft and liquor law violations.
- In 26 states, Native American youth are disproportionately placed in secure confinement in comparison to their population. For example, in four states (South Dakota, Alaska, North Dakota, Montana), Native youth account for anywhere from 29-42% of youth in secure confinement.
- Nationwide, the average rate of new commitments to adult state prison for Native American youth is almost twice (1.84 times) that of White youth. In the states with enough Native Americans to facilitate comparisons, Native American youth were committed to adult prison from 1.3 to 18.1 times the rate of Whites.
- Of the youth in custody of the Federal Bureau of Prisons, 79% were Native American as of October 2000—an increase of 50% since 1994.
- Alcohol-related deaths among Native Americans ages 15-24 are 17 times higher than the national averages. The suicide rate for Native American youth is three times the national average. Forty-four percent of all American Indian students drop out of high school, more than any other group in the country – the rate varies between 25% and 93%, depending on region.

## **Federal Mandates**

The Juvenile Justice Delinquency Prevention Act (JJDPA) of 1974 was amended in 1989 to include a provision addressing the needs of federally-recognized Indian tribes. The JJDPA

stipulates that states in their three-year plans must include the juvenile justice needs of Indian tribes.

States with a minority representing 1% or more in the general population are required by the Act to have a Disproportionate Minority Contact (DMC) plan that addressed the issues, concerns and problems of their over-representation. More proactive alternatives to the use of secure confinement for the Native youth are needed, and collaborative relations between Indian tribes and states could be strengthened. Our efforts and findings are intended to assist states in their strategic planning to reduce Native over-representation and disparate treatment.

Native American youth who have committed one of 16 major federal crimes on Indian lands with exclusive federal jurisdiction are prosecuted by the U.S. Attorney's Office. Of all youth in the nation who are prosecuted federally, 32% are placed in a secure facility for juvenile offenders, and 74% of these are Native American. As there are no federal correctional facilities nationwide specifically for juvenile offenders, the Federal Bureau of Prisons contracts beds in state or private facilities for these youth in their custody. Such facilities must be within proximity to the youths' homes and have culturally appropriate services.

## What We Do Not Know: Key Elements

Unfortunately, there is too much that is unknown about American Indian children and youth and the juvenile justice system. Without reliable knowledge, attempts at mobilizing advocacy efforts have gone without funding and have failed to gain traction. Research is needed to raise awareness of the issues and to justify the need for funding to begin to address the issues. Things that we do not know and research must address include the following:

### About the Youth

What is the true nature and character of Indian youth in the juvenile jus-

tice system (demographics, nature of offenses, victims of abuse and neglect, drug and alcohol involvement, gang membership, emotional problems, risk of suicide, educational attainment and special needs, degree to which youth experienced detention, etc.)?

How many American Indian youth are held in: (a) adult jails, (b) juvenile detention facilities, (c) juvenile commitment facilities or training schools, and (d) adult prisons? Are American Indian youth over-represented at each stage of the justice system: arrest, detention, transfer to adult court, adjudication, disposition, and incarceration in juvenile or adult facilities?

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## Too much is unknown about American Indian children and youth and the juvenile justice system.

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What is the experience of American Indian youth in the juvenile justice system? Are their special needs being met? Are they treated differently than other youth?

What is the experience of the parents of American Indian youth in the juvenile justice system? In what ways are they involved?

### About the Systems

What is the nature and character of current juvenile justice systems and services that serve American Indian youth and families? Are there culturally authentic support, treatment and rehabilitation services? What are the current recidivism rates of Native youth?

To what degree are juvenile justice interventions being used in lieu of mental health, child welfare and educational services that are unavailable?

Are tribal religious leaders and Native healers gaining frequent access to juvenile correctional facilities to work with and counsel Native youth? Are tribal religions and ceremonial practices included in these facilities?

What is the nature and character of current tribal juvenile justice systems

and services? In what ways are they involved with tribal youth in the custody of the state or the Federal Bureau of Prisons?

## Recommendations

The NICWA Board of Directors identified the issue of juvenile rights as an area of concern in 2002, when it became apparent that Indian children and youth were being maltreated in juvenile detention facilities and that many of the youth being confined in those facilities were there, not because they committed a crime, but because there were not appropriate mental health or child welfare resources available to meet their needs. Through our examination of these issues over a five-year period, we arrived at several recommendations.

It is recommended that the Department of Justice (DOJ) or private funders conduct or sponsor formative research in states that are known to have particularly high levels of over-representation or have documented harsh treatment of Indian youth in juvenile justice systems or juvenile facilities and that have already begun to engage in some dialogue with tribes to explore solutions. Such formative research should address the following questions:

- What is the nature and character of current juvenile justice systems and services that serve American Indian youth and families?
- To what degree are there data, research or literature regarding American Indian youth in the juvenile justice system?
- To what degree does an advocacy movement, network or voice exist for American Indian youth in the juvenile justice system?
- To what degree are tribal government officials having influence in the treatment, rehabilitation and disposition regarding their tribal members in state or federal juvenile justice systems and facilities?

It is further recommended that DOJ engage leaders in planning for strategic activities that will lead to clear iden-

*(Please turn to page 22)*

tification of related problems in Native communities, including what might be effective alternatives and strategies to address the problems. Finally, it is recommended that the Juvenile Justice and Delinquency Prevention Act be amended to ensure the rights of tribal youth and to begin to provide resources to correct this hidden problem.

## Conclusion

Currently, Indian children and youth who are identified as delinquent have few protections and even fewer advocates. Parents of these children who are served in this system often experience a sense of powerlessness and report being discriminated against. Tribes that might be resources for positive change are without resources or the right to intervene on their citizens' behalf. This article is a call to action aimed at stimulating dialogue about this little-discussed topic. □

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# PRRAC Researcher Report

## Sentencing Enhancement Zones Fail to Protect Children, Do Increase Racial Disparities in Prison

by Aleks Kajstura and Peter Wagner

Most states give longer mandatory sentences to Black and Latino drug defendants under flawed statutes that punish people based not on the offense committed but on where they live. Originally intended to move drug ac-

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tivity away from schools, the laws have created a two-tier system of justice: one for dense urban areas where schools are everywhere and another for rural and suburban areas, where schools are relatively few and far between.

A new report by the Prison Policy Initiative, *The Geography of Punishment: How Huge Sentencing Enhancement Zones Harm Communities, Fail to Protect Children*—supported by a PRRAC research/advocacy grant and a summer stipend through the Benjamin

N. Cardozo School of Law—examined the sentencing enhancement law in Hampden County, located in Western Massachusetts. We were able to show that setting sentence lengths on where an offense was committed doesn't stop drugs, can't ever stop drugs and has racially discriminatory effects.

These laws, sometimes called "school zones" or "drug-free zones," vary from state to state, but the specifics of the Massachusetts statute are common, creating a mandatory sentence of at least two years for certain

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offenses that occur within 1,000 feet of a school and 100 feet of a park. States began passing these laws in the late 1980s, intending them to work as a geographic deterrent, identifying specific areas where children gather and using the threat of an enhanced penalty to drive drug offenders elsewhere. However, the law does not require that the defendant be aware of the zone, and applies regardless of proximity to the protected location, whether school is in session and whether children are present.

Previous research has shown that zone laws fail to move drug dealers away from schools, and suggested that extensive drug-free zones result in harsher sentences for Black and Latino defendants because they tend to live in dense cities blanketed by overlapping zones. Our report is the first to quantify the effect of zone laws on Black and Latino populations, and the first to offer comparisons between urban and rural areas. The report also directly examined whether the Massachusetts legislature was right to assume that 1,000 feet was an appropriate distance for a geographically-based deterrent.

## Project Findings

We set out to answer two questions. First, does Massachusetts' drug-free zone law punish certain populations more harshly because of where they live? Secondly, is 1,000 feet a logical or effective distance for a geography-based sentencing enhancement?

We chose to focus on Hampden County, which contains both cities and very rural towns. Hampden County is twice as likely to charge its citizens with drug offenses as the state as a whole, and uses the zone law more than any other Massachusetts county. As a percentage of its total population, Hampden has the second largest minority population in Massachusetts, after Suffolk County (Boston). The county's internal diversity and frequent use of the zone law made it an ideal place to study the geographical make-up of these zones.

In Hampden County, we found that

blanketing urban areas in overlapping enhancement zones makes Black, Latino, urban and poor people disproportionately eligible for the enhanced sentence, compared to White, rural and suburban populations. This disparity is not warranted by drug usage rates among children, which are similar across all of these populations. Twenty-nine percent of the Whites in Hampden County live in zones, but 52% of the Blacks and Latinos do. Latinos are more than twice as likely as Whites to live in a zone. As a result, almost 8 out of 10 people convicted of zone offenses are Black or Latino. Residents of urban areas are five times more likely to live in a zone than those in rural areas.

The legislature wanted to protect children, but choosing an expansive distance of 1,000 feet ensured that the law could not operate as intended to relocate drug offenses away from schools. Drug offenses are already criminal; the legislature's separate intent to protect children is evidenced by this separate penalty. Counter-intuitively, by choosing a large distance that leaves no place for the offense to relocate to, the legislature afforded less protection to children.

A law aimed at reducing children's exposure to drugs should punish those specific crimes, not generalize about the nature of the activity within a huge area. Though the sentencing enhancement zone statute was written for an important purpose, its fundamental flaws ensure its complete ineffectiveness as a deterrent. In addition, it does insidious and devastating harm to urban, minority and poor populations.

We determined that the zones are too large for someone to reliably estimate and avoid. Deterrence works when there is a specific harsh consequence to a limited activity. Deterrence-based laws fail to work where there is no incentive to alter one's actions. To create a safety zone around schools, the area to be protected needs to be small enough that a person choosing to engage in prohibited activities can choose to go elsewhere to avoid higher penalties. This law creates zones that are so big that it is impos-

sible to determine where they start and end, and therefore they do not work to move dangerous activities away from children.

## Recommendations

The report offers three suggestions to improve the law's ability to protect children from the drug trade and reduce its disproportionate effect on urban, Black, Latino and poor populations.

First, the statute could be amended to exempt circumstances where children are not present or endangered, such as drug sales that take place in private dwellings, conducted in the absence of children.

Second, the state could repeal the school zone law and enforce existing laws that explicitly address the goal of the zone statute: selling drugs to children or involving them in the drug trade.

The third option, and the politically most expedient to implement, is to reduce the zones to 100 feet around schools in order to match the distance already designated for parks and require that the property line of designated areas be marked.

A smaller, marked distance would be easier for people to see, and because it would apply to only a small portion of urban areas it would more effectively shift drug activity away from schools and parks. Our report found that smaller zones would also drastically reduce the current law's disparity in sentencing.

*The Republican* (Springfield, MA) newspaper gave our report front-page coverage. Reflecting the changing political tide, the article included supportive quotes from local officials who have historically been opponents of criminal justice reform. Interest in reform is growing statewide. The Massachusetts Joint Committee on the Judiciary recently introduced a bill in the House that would, among other changes, reduce the zones to 100 feet. Although the legislative session ended before action on the bill was taken, the stage is set for more organizing and further progress in the near future. □

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The lead article in our Jan./Feb. 2006 P&R was “Truth and Reconciliation in Greensboro, North Carolina: A Paradigm for Social Transformation,” by Marty Nathan and Signe Waller, followed by a short update in our May/June 2006 issue. While down in Greensboro in mid-September to speak at a HUD housing conference, I took the opportunity to meet with Signe Waller and attended the weekly Beloved Community meeting at a local church. It seemed appropriate to report on the project’s progress, which I’ve ask Ms. Waller (now Ms. Waller Foxworth) to do. Another side-trip while in Greensboro was a tour of the under-construction International Civil Rights Center and Museum—in the very Woolworth’s that was the site of the February 1960 sit-in by four No. Carolina A&T freshmen that triggered such a wave of exciting and effective civil rights activities. The ICRCM is scheduled to open in February 2010, on the 50th anniversary of the sit-in. It is a huge (and expensive) undertaking—physically and politically. Further information (or to make a contribution), contact the project’s Executive Director Amelia Parker, 800/748-7116, [info@sitinmovement.org](mailto:info@sitinmovement.org)—CH

## Greensboro’s Radical Experiment in Democracy

by Signe Waller Foxworth

“Now comes the hard part, taking this beautiful body of work out into the community,” a local supporter of the Greensboro Truth and Community Reconciliation Project (the Project) told a reporter. The comment was made after the country’s first Truth and Reconciliation Commission, charged with an “examination of the context,

causes, sequence and consequence of the events of November 3, 1979,” in Greensboro, North Carolina, presented its lengthy final report to city residents on May 25, 2006. A radical experiment in community-building and genuine democracy is taking place in this mid-sized Southern city. What has been accomplished thus far has

of community marches and petitions in a highly charged political climate that included constant governmental repression and police surveillance and harassment of those who stood with the victims, the injured and widowed survivors of Nov. 3, 1979 realized an unprecedented, though only partial, victory in civil litigation. Several Klan members, Nazis and Greensboro police officers were found jointly liable for one of the deaths.

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Signe Waller Foxworth ([signewaller@earthlink.net](mailto:signewaller@earthlink.net)) is a survivor and widow of the Nov. 3, 1979 Klan-Nazi attack; a member of the Greensboro Truth and Community Reconciliation Project’s Local Task Force; and author of *Love and Revolution: A Political Memoir: People’s History of the Greensboro Massacre, Its Setting and Aftermath* (Rowman & Littlefield, 2002).

The Greensboro TRC’s Final Report and the Executive Summary are online at [www.greensborotrc.org](http://www.greensborotrc.org). The Beloved Community Center may also have some hard copies of the Commission’s Final Report available for sale – 336/230-0001, [josephf@belovedcommunitycenter.org](mailto:josephf@belovedcommunitycenter.org). The Project’s website, [www.gtcp.org](http://www.gtcp.org), offers access to all the Project’s defining documents as well as several academic study plans that have been used locally. The documentary film *Voices of Greensboro* is available through the Beloved Community Center. To obtain the documentary *Greensboro: Closer to the Truth*, produced by Adam Zucker, email [info@greensborothe.com](mailto:info@greensborothe.com).

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### The Greensboro truth process was grassroots-driven.

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inspired many people in the United States and around the globe.

### The Background

The Greensboro Truth and Reconciliation Commission (Greensboro TRC) examined events connected to the Greensboro Massacre. On November 3, 1979, while assembling for an anti-Klan parade, five labor leaders and community activists were murdered and ten wounded by Klansmen and American Nazis. Killed were four white men (two of them Jewish, one Latino) and an African-American woman. The black community in which this terrorist assault took place was paralyzed with fear. Four television crews captured the incident on film. Nevertheless, all the perpetrators were twice acquitted of any wrongdoing, first in a state trial for murder and later in federal court for civil rights violations. Finally, in 1985, after years

The City of Greensboro paid a \$351,000 settlement—for the Klan and Nazis, as well as the police—to survivors of the tragedy, but has failed, as yet, to acknowledge any responsibility whatsoever, much less its complicity and dishonest actions in the affair. A few thousand dollars was assessed against the Klan and Nazis for assaulting and injuring some demonstrators, but they never paid and there was no further litigation. Until the release of the Greensboro TRC report, there was no comprehensive and coherent public account of this civil atrocity. The official narrative proffered by the city and the media was (and remains) significantly flawed: It scapegoated the victims of the tragedy and ignored or downplayed factual evidence that clearly pointed to police and governmental collusion with the assailants.

The Commission’s report goes a long way toward rectifying false views foisted on people through the mass media. Commissioners concluded that the “GPD [Greensboro Police Dept.] and key city managers deliberately misled the public about what happened

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on Nov. 3, 1979....” The report articulates that police absence at the anti-Klan rally was intentional and that the absence of the police was the “single most important element that contributed to the violent outcome of the confrontation.”

## Wider Applicability

Can Greensboro’s truth process be applied elsewhere? Most definitely. The systemic nature of racism and worker oppression in the U.S. guarantees that virtually every town or city has ample historical experience of injustices it has yet to face and overcome. Everywhere, genuine democracy is blocked by powerful institutions built to further enrich a wealthy elite at the expense of the people. If the transformation of society toward genuine democracy is the goal, then this process of truth and reconciliation is totally relevant and effective, providing a mechanism with application anywhere. While it focuses on the past, it is oriented toward the future. The Greensboro model can be applied right now and adapted to local circumstances.

## Grassroots-Driven

Most extraordinary perhaps about the Greensboro truth process is that it was grassroots-driven, implemented without official authorization. In fact, the Project thrived *against* official opposition—in 2005, the City Council voted to oppose it. The vote was split along racial lines, with three black Council members in support of the process and six whites against. The mayor at the time, who was white, joined the naysayers. Over a year later, when the issue was revisited in Council, the opposition vote held.

However, this is actually good news. When one considers what the Project has achieved, despite the resistance it has encountered, including official opposition, then it is clear that communities, towns, cities and states do not have to wait for a nod from on

high. If people can be mobilized, if there is a strong community group or other non-governmental organizations with political will and the desire to seek truth, restorative justice and the healing of past wounds, then there is a potential to embark on a transformational truth process. Alex Boraine, who served as Deputy Chair of the South African Truth and Reconciliation Commission, praised the Greensboro experiment to a Project delegation visiting South Africa in 2007. Greensboro, he said, is making a major contribution to truth processes internationally because it has shown, with the strength of its community model, what people can do *without* government sponsorship.

In very sketchy outline, here is how

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### **Greensboro’s truth process can be applied elsewhere.**

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Greensboro’s radical experiment in democracy is unfolding: Its pre-Commission phase began in 1999 when the vision took shape in the minds of several massacre survivors — in particular, Rev. Nelson Johnson and Joyce Johnson of the Beloved Community Center and Dr. Marty Nathan of the Greensboro Justice Fund. A couple of years later, the Project went forward with financial support from the Andrus Family Fund and in consultation with the International Center for Transitional Justice, which linked the Greensboro effort to a worldwide trend in restorative justice.

The essence of the Project lies in the local organizing carried out day-to-day by the Beloved Community Center and affiliated organizations with community members. The commitment to employ genuinely democratic methods and to strive for inclusive participation is unshakable. The Project established a Local Task Force and a National Advisory Council early on.

In January 2003, the Local Task Force announced its Declaration of Intent to revisit the tragedy in order to “lead Greensboro into becoming a more just, understanding and compas-

sionate community.” The Declaration was signed by 32 community leaders. Community members then prepared and published a Mandate and Selection Process for a Truth and Reconciliation Commission. Also in 2003, Archbishop Desmond Tutu met with a delegation from the Local Task Force. His inspiring and encouraging words, along with the support of other main players in the South African Truth and Reconciliation Commission, reinforced the Project’s orientation toward a firm spiritual grounding for its mission of truth-seeking, restorative justice and community reconciliation.

The Selection Panel that appointed the Commissioners consisted of over a dozen panelists chosen by diverse groups and organizations. The Panel was broadly representative of city residents. Everyone in Greensboro was invited to submit nominations for Commissioners. The panel selected seven Commissioners from among the nominees. Commissioners were installed on June 12, 2004, in a moving, historic ceremony at the Transit Depot in downtown Greensboro. The swearing-in ceremony was officiated by Melvin Watt, North Carolina’s 12<sup>th</sup> Congressional District Congressman and a member of the Project’s National Advisory Council; Carolyn Allen, a former Greensboro Mayor and Co-Chair of the Project’s Local Task Force; and District Court Judge Lawrence McSwain, the Chair of the Project’s Selection Panel. Once spawned by the Project, the Commission was independent. It hired its own staff and made its own decisions.

## The Commission

Overcoming many obstacles, the Greensboro TRC carried out its mandate faithfully. To mention only a few of these: the need to scramble for funding; the lack of an existing template for a grassroots-driven truth and reconciliation commission; and ongoing resistance from the city’s status quo leadership and institutions, in particular attempts, subtle and not so subtle,

*(Please turn to page 26)*

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(GREENSBORO: Continued from page 25)

to split the Commission from the Project—i.e., try to introduce from outside the process ground rules that would cut off the survivors of the original incident from the Commission, or cast suspicion on the entire process because those victimized in 1979 were part of it.

For over two years, the Greensboro TRC conducted myriad interviews, held hearings, investigated documentary evidence and kept open lines of communication to Greensboro's communities. Over the course of three months in the Summer of 2005, the Commission held three sets of public hearings, each lasting a full day and an evening. Testimonies came from victims, perpetrators, people who lived in the community where the killings took place, academics, clergy people, community organizers, lawyers, judges, law enforcement and media representatives—people with some involvement in, or knowledge of, the incident.

Throughout its implementation, the Project has received messages of support from the U.S. and abroad. Several individuals and communities have approached the Project with queries about how they might create something similar to address racism and injustice in their own histories. Project representatives have met with, and assisted, people from Philadelphia, Mississippi; Moore's Ford, Georgia; New Orleans, Louisiana; Rosewood, Florida; Abbeyville, South Carolina; and Wilmington, North Carolina. Groups in several other states, including Tennessee, Alabama, Oklahoma and Ohio, have expressed interest in engaging a truth process. In July 2006, the Beloved Community Center and the International Center for Transitional Justice co-sponsored an international conference in Greensboro at which several North American groups involved in truth-seeking joined representatives from South Africa, Peru, Northern Ireland and Sri Lanka to share lessons from their various efforts.

Some detractors of the Project have

claimed that only a few survivors really care about, or are involved in, the truth process. Were that true, Rev. Nelson Johnson and his wife Joyce would not have received the prestigious and highly competitive Ford Foundation's "Leadership for a Changing World" award in Fall 2005. The award was granted in recognition of their leadership to the Beloved Community Center and, in particular, to the truth and reconciliation process.

Far from it being the concern of merely a few, over 10,000 Greensboro residents actively participated in Project events and initiatives by view-

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### **The city became a virtual classroom on race and class inequities.**

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ing the Project's documentary, *Voices of Greensboro*, that describes the truth process; attending the Commission's installation ceremony; signing a petition urging City Council support for the truth process; marching on the 25<sup>th</sup> Anniversary of the Greensboro Massacre in support of the Project's goals; attending the three days and three evenings of public hearings held by the Greensboro TRC; participating in special church services that honored the deep, sacred meaning of the community's striving for truth and reconciliation; attending and speaking out at many community-wide meetings sponsored by the Project or the Commission over a six-year period; agreeing that their organization be a report-receiver and then studying the Commission's Final Report with their groups; adopting the Commission's Final Report for classroom study; and attending showings of *Greensboro: Closer to the Truth*, an independent film featuring Greensboro's truth process. Thousands more were exposed to the process through media coverage and other forms of public discussion. The city was turned into a virtual classroom on questions of racial and class inequities.

## **The Post-Commission Phase**

Today, the Project is in its post-Commission phase. Study of the Commission's report continues in Greensboro, where the focus is on its recommendations for the City government. In all of the colleges and universities in the Greensboro area, teachers and students are studying the report, assigning and writing papers, and giving creative, artistic expression to the themes in the truth process. One example of the interest on the part of students was a Concerned Students for Truth and Reconciliation Conference, at UNC-Greensboro in April 2007, with participants from the host campus, Guilford College, North Carolina A&T State University, Greensboro College, Elon University and Duke University. Another is the memorable and spectacular multi-media performance, with choreographed dancers and a jazz orchestra, in February 2008, at N.C. A&T State University. The production, "Bullet Holes in the Wall: Reflections on Acts of Courage in the Struggle for Liberation," linked together three Greensboro events—the 1960 student sit-ins, the 1969 student uprising and the 1979 attack on an anti-Klan rally—as "part of a larger movement for equality, true democracy and social and economic justice...continuing even today."

The democratic methodology of seeking truth, building community and advancing reconciliation and restorative justice is being applied here in Greensboro and in North Carolina to such recent and current struggles as raising the minimum wage; stopping racist hate crimes and demanding institutional accountability when they occur; defending immigrants against abuse in their communities and workplaces; and changing unjust, counter-productive ways of dealing with groups of youth known as gangs. The Project and the Commission's work have created a wonderful opening into the present, a way to empower people to acknowledge their past and take ownership of their future. □

# Resources

*Most Resources are available directly from the issuing organization, either on their website (if given) or via other contact information listed. Materials published by PRRAC are available through our website: [www.prrac.org](http://www.prrac.org). Prices include the shipping/handling (s/h) charge when this information is provided to PRRAC. "No price listed" items often are free.*

*When ordering items from PRRAC: SASE = self-addressed stamped envelope (42¢ unless otherwise indicated). Orders may not be placed by telephone or fax. Please indicate from which issue of P&R you are ordering.*

## Race/Racism

- **"Hispanics and the Economy,"** by Algernon Austin & Marie T. Mora, is a 13-page, Oct. 31, 2008 Briefing Paper, available (possibly free) from the Economic Policy Inst., 1333 H St. NW, E. Tower #300, Wash., DC 20005, 202/775-8810, [www.epi.org](http://www.epi.org) [11134]
- **"Reversal of Fortune: Economic Gains of 1990s Overturned for African Americans from 2000-07,"** by Algernon Austin, a 13-page, Sept. 2008 Briefing Paper, available (likely free) from the Economic Policy Inst., 1333 H St. NW, E. Tower #300, Wash., DC 20005, 202/775-8810, [www.epi.org](http://www.epi.org) [11142]
- **Twenty-First Century Color Lines: Multiracial Change in Contemporary America,** eds. Andrew

Grant-Thomas & Gary Orfield (2008), has been published by Temple Univ. Press. Contributors include (PRRAC Board member) John Powell, John Mollenkopf and others. Available at [www.temple.edu/tempress/titles/1929\\_reg.html](http://www.temple.edu/tempress/titles/1929_reg.html) [11164]

- **Integrationagenda.org** is a new "collaborative effort to develop and execute a comprehensive agenda for residential integration." The initiative, joined by sister organization MoveSmart.org, grew out of a recent conference sponsored by the Inst. of Govt. & Public Affairs at the Univ. of Illinois at Chicago and the Jane Addams Hull House Assn. Inf. at [www.integrationagenda.org](http://www.integrationagenda.org) [11167]

- **"The Work That Remains: A Forty-year Update of the Kerner Commission Report"** was held Nov. 13 at the Economic Policy Inst. Speakers included Valerie Wilson of the Natl. Urban League Policy Inst., Alan Curtis of the Milton S. Eisenhower Foundaton, Algernon Austin and John Irons of EPI, and Hilary Shelton of NAACP. Inf. from EPI, 1333 H St. NW, #300 E. Tower, Wash., DC 20005, [epi@mail.democracyinaction.org](mailto:epi@mail.democracyinaction.org) [11165]

- **"Beyond Borders: Education in Action,"** a conference celebrating the 40th anniversary of Ethnic Studies at UCLA, was held on Nov. 15. Inf. from PRRAC Board member Don Nakanishi (who headed the university's Asian

**Please drop us a line letting us know how useful our Resources Section is to you, as both a lister and requester of items. We hear good things, but only sporadically. Having a more complete sense of the effectiveness of this networking function will help us greatly in foundation fundraising work (and is awfully good for our morale). Drop us a short note, letting us know if it has been/is useful to you (how many requests you get when you list an item, how many items you send away for, etc.) Thank you.**

American Studies Center for much of this period) at [dtm@ucla.edu](mailto:dtm@ucla.edu) [11148]

- **"Americans at the Pulpit and in the Public Square: A conversation about race, religion in a diverse America"** will be held **Jan. 17-19, 2009** at Xavier Univ. in New Orleans. Inf./registration at [nolaconference.blogspot.com](http://nolaconference.blogspot.com) [11190]

## Poverty/Welfare

- **"Recession Could Cause Large Increases in Poverty and Push Millions Into Deep Poverty,"** by Sharon Parrott (Nov. 2008), from the Center on Budget and Policy Priorities (headed by former PRRAC Board member Robert Greenstein) is available at [www.cbpp.org/11-24-08pov.pdf](http://www.cbpp.org/11-24-08pov.pdf) [11182]

## Criminal Justice

- **"Best Practices for Reentry Programs,"** by Julie Verratti, is the cover article in the Sept./Oct. issue of *Cornerstone*, the periodical of the Natl. Legal Aid & Defender Program (whose Board

Chair is PRRAC Board member José Padilla). The 48-page issue is available (possibly free) from NLADA, 1140 Conn. Ave. NW, #900, Wash., DC 20036-4019, 202/452-0620, [www.nlada.org](http://www.nlada.org) [11135]

## Economic/Community Development

- **"Gulf Coast Redevelopment Pathways to Recovery"** (32 pp.), is the Fall 2008 issue of *Community Developments*, the Community Affairs Newsletter of the Comptroller of the Currency; available (likely free) from the CoC, Dept. of Treasury, Wash., DC 20219, [www.occ.treas.gov/cdd/resource.htm](http://www.occ.treas.gov/cdd/resource.htm) [11133]

- **New York for Sale: Community Planning Confronts Global Real Estate,** by Tom Angotti, has just been published by MIT Press, [mitpress.mit.edu](http://mitpress.mit.edu) [11136]

## Education

- **"Strengthening Out-of-School Time Nonprofits: The Role of**

**Foundations in Building Organizational Capacity**” (Oct. 2008) is available (possibly free) from the Harvard Family Research Project. Harvard Grad. School of Education, 3 Garden St., Cambridge, MA 02138, [11139]

- **“Can Separate Be Equal? The Overlooked Flaw at the Center of No Child Left Behind”** is a 12-page Reality Check Guide to the Issues (updated for 2008), available (\$3.50) from The Century Foundation, 41 E. 70 St., NYC, NY 10021, 212/535-4441, www.tcf.org [11151]

- **“Left Behind: Unequal Opportunity in Higher Education”** is a 12-page Reality Check Guide to the Issues, updated for 2008, available (\$3.50) from The Century Foundation, 41 E. 70 St., NYC, NY 10021, 212/535-4441, www.tcf.org [11152]

- **“Measuring Skills for the 21st Century,”** a 2008 report from The Education Sector, makes the case for incorporating modern skills into assessments. Available at www.educationsector.org/research/research\_show.htm?doc\_id=716323 [11153]

- **“Counting on Graduation,”** a 2008 Education Trust report, examines state policies on graduation rates. Available at tinyurl.com/59xnpf [11154]

- **“Relationships, Rigor and Readiness: Strategies for Improving High Schools”** is a 2008 report from MDRC, available at www.mdrc.org/publications/498/full.pdf [11155]

- **“One Dream: Two Realities: Perspectives of Parents on America’s High Schools”** a 2008 report by Civic Enterprises in association with Peter D. Hart Research Associates and the Bill & Melinda Gates Fdn., is available at www.civicenterprises.net/pdfs/onedream.pdf [11156]

- **“Present, Engaged, and Accounted For: The Critical Importance of Addressing Chronic Absence in the Early Grades,”** by Hedy N. Chang & Mariajose Romero (7 pp., Sept. 2008), is available (possibly free) from the National Center for Children in Poverty, Mailman School of Public Health, Columbia Univ., 215 W. 125 St., NYC, NY 10027, 646/284-9600, www.nccp.org [11161]

- **“Failed Promises: Assessing Charter Schools in the Twin Cities”** (Nov. 2008) has been issued by the Univ. Minn. Inst. on Race & Poverty. The study finds that charter school competition has deepened segregation within traditional public school systems. Inf. and report available from Baris Gumus-Dawes, 612/625-2872, bdawes@umn.edu [11168]

- **“Quality Schools, Healthy Neighborhoods, and the Future of DC”** (52 pp., Oct. 2008) is available from the Urban Inst., www.urban.org/UploadedPDF/411768\_future\_of\_dc.pdf. [11180]

- **“The Fear of ‘Acting White’ & The Achievement Gap: Is There Really a Relationship?,”** by Brando Simeo Starley & Susan E. Eaton, is an Oct. 2008 report avail-

able (possibly free) from the Charles Hamilton Houston Inst. for Race & Justice at Harvard Law School, 125 Mt. Auburn St., 3rd fl., Cambridge, MA 02138, 617/495-8285, houstoninst@law.harvard.edu, charleshamiltonhouston.org [11191]

## Employment/ Labor/ Jobs Policy

- **“Creating Post-secondary Pathways to Good Jobs for Young High School Dropouts,”** by Linda Harris & Evelyn Ganzglass (12 pp., Oct. 2008), is available (free) from the Ctr. for Law & Social Policy (headed by former PRRAC Bd. member Alan Houseman), 1015 15th St. NW, #400, Wash., DC 20005, 202/906-8000, www.clasp.org [11138]

- ***Beyond the Fields: Cesar Chavez, the UFW, and the Struggle for Justice in the 21st Century,*** by Randy Shaw (2008?), can be ordered at www.beyondthefields.net [11144]

- ***Wage Theft in America,*** by Kim Bobo (2008, \$17.95+s/h), has been published by New Press. [11192]

## Families/ Women/ Children

- **Federal Youth Coordination Act of 2008 (H.R. 7004)** was introduced by Congressman John Yarmuth (D-KY), building on the bipartisan Federal Youth Coordination Act and establishes the White

House Office of National Youth Policy. Addl. inf. from Phillip Lovell, First Focus, phillipl@firstfocus.net or Thaddeus Ferber, Forum for Youth Investment, Thaddeus@ForumFYI.org [11162]

- ***Asset Building and Low-Income Families,*** by Signe-Mary McKernan & Michael Sherraden (300 pp., 2008, \$29.50), has been published by Urban Inst. Press, www.urban.org/books/assetbuilding/index.cfm [11172]

- **“Ensuring Quality Care for Low-Income Babies: Contracting Directly with Providers to Expand and Improve Infant and Toddler Care,”** by Hannah Matthews & Rachel Schumacher (20 pp., July 2008), a CLASP Policy Paper, is available (free) from the Ctr. for Law & Social Policy (headed by former PRRAC Board member Alan Houseman), 1015 15th St. NW, #400, Wash., DC 20005, 202/906-8000, www.clasp.org [11189]

## Health

- **“Disability Rights - Public Accommodations Self-Advocacy Toolkit”** (2008) is available (possibly free) from the Equal Rights Center, 202/370-3204, nlaber@equalrightscenter.org [11160]

- **“Evaluating the Economic Causes and Consequences of Racial and Ethnic Health Disparities,”** by Kristen Suthers, is an Oct. 2008 American Public Health Assn. brief, available (possibly free) from Dr. Suthers, 202/777-2434, kristen.suthers@apha.org, www.apha.org/advocacy/reports [11163]

- **Using Taxes to Reform Health Insurance: Pitfalls and Promises** (Nov. 2008) has been published by Brookings Institution Press, [www.brookings.edu/press/Books/2008/usingtaxestoreformhealthinsurance.aspx](http://www.brookings.edu/press/Books/2008/usingtaxestoreformhealthinsurance.aspx) [11175]

- **“Growing Pains to the Los Angeles Healthy Kids Program”** (Oct. 2008), an Urban Inst. policy study, is available at [www.urban.org/health\\_policy/url.cfm?ID=411653](http://www.urban.org/health_policy/url.cfm?ID=411653). [11176]

- **“An Analysis of the Obama Health Care Proposal”** (Sept. 2008) is available through the Urban Institute’s Health Policy Center, [www.urban.org/UploadedPDF/411754\\_obama\\_health\\_proposal.pdf](http://www.urban.org/UploadedPDF/411754_obama_health_proposal.pdf) [11177]

- **“Headed for a Crunch: An Update on Medicaid Spending, Coverage and Policy Heading into an Economic Downturn”** (109 pp., Sept. 2008), by the Kaiser Family Foundation’s Kaiser Commission on Medicaid and the Uninsured, is available at [www.kff.org/medicaid/upload/7815.pdf](http://www.kff.org/medicaid/upload/7815.pdf) [11178]

- **The Assn. of Maternal & Child Health Programs** is holding its annual conf. **Feb. 21-25, 2009** in Wash., DC. Inf. from AMCHP, 2030 M St. NW, #350, Wash., DC 20036, 202/266-3049, [AMCHP.org/Events](http://AMCHP.org/Events) [11149]

## Housing

- **“Economic Stimulus and Economically Distressed Workers”** (2008) highlights how tens of millions of U.S.

homeowners are victimized and vulnerable as a result of subprime mortgages offered in 2006 and early 2007. Available from the Center for the Study of Working Class Life at [www.stonybrook.edu/workingclass/ecostimulus/shtml](http://www.stonybrook.edu/workingclass/ecostimulus/shtml) [11145]

- **Discrimination against Housing Choice voucher holders in Montgomery County, MD** is documented in a 2008 report from the Equal Rights Center, available from them at 11 Dupont Circle, #450, Wash., DC 20036, 202/234-3062, [www.equalrightscenter.org](http://www.equalrightscenter.org) [11158]

- **“Evicted from the American Dream: The Redevelopment of Mount Holly Gardens”** (Nov. 2008) was issued by the New Jersey Public Advocate — available at [www.state.nj.us/publicadvocate/public/pdf/gardens\\_report.pdf](http://www.state.nj.us/publicadvocate/public/pdf/gardens_report.pdf) [11166]

- **“2008 State of Metropolitan Housing Report”** (Louisville) is available (no price listed) from the Metropolitan Housing Coalition, PO Box 4533, Louisville, KY 40204-4533, 502/584-6858, [www.metropolitanhousing.org](http://www.metropolitanhousing.org) [11171]

- **Subprime Mortgages: America’s Latest Boom and Bust**, by Edward M. Gramlich (120 pp., June 2007, \$26.50), has been published by Urban Inst. Press. [11173]

## Immigration

- **“Uprooted: The Impact of Free Markets on Migrants,”** by David Bacon, on the detrimental effect of the N. American Free Trade Agreement (NAFTA) on

immigrants (2008?), is available at [www.oaklandinstitute.org](http://www.oaklandinstitute.org) [11143]

- **WeAreCA.org** is a new Calif. Council for the Humanities website, chronicling the history of Calif. immigration and migration, allowing all Californians to tell their story. [11146]

- **“10 Harmful Misconceptions About Immigration”** (Aug. 2008), from the Equal Rights Center, is available (hard copy) from [jlaber@equalrightscenter.org](mailto:jlaber@equalrightscenter.org), and can be found on their website under “Publications Studies and Research,” [www.equalrightscenter.org](http://www.equalrightscenter.org) [11157]

- **“Know Your Rights”** is a 2008 immigrant rights handbook, available (possibly free) from Natalie Lober at the Equal Rights Center, 202/370-3204, [nlaber@equalrightscenter.org](mailto:nlaber@equalrightscenter.org) [11159]

## Miscellaneous

- **“CLASP Federal Policy Recommendations for 2009 and Beyond,”** by (former PRRAC Board member) Alan Houseman (12 pp., Oct. 2008), is available (free) from the Ctr. for Law & Social Policy, 1015 15th St. NW, #400, Wash., DC 20005, 202/906-8000, [www.clasp.org](http://www.clasp.org) [11137]

- **“The Measure of America,”** from the American Human Development Project (July 2008), aims to measure the well-being of the nation using the UN’s international development model. Available at [measureofamerica.org/order](http://measureofamerica.org/order) [11179]

## Job Opportunities/ Fellowships/ Grants

- **The Citizens Commission on Civil Rights** (headed by PRRAC Board member William L. Taylor) is hiring a **Project Coordinator**. \$30,000. Resume/ltr/2 refs to [crosario@cccr.org](mailto:crosario@cccr.org) [11193]

- **The National Women’s Law Center** (whose Co-President is former PRRAC Board member Nancy Duff Campbell) is seeking a **Vice President/General Counsel** and a **Communication Manager**. Ltr./writing sample/salary requirements/resume/3 supervisory refs. (preferably sent electronically, with position title in subject line) to [humanresources@nwlc.org](mailto:humanresources@nwlc.org); hard copies to the Center, 11 Dupont Circle, #800, Wash., DC 20036, fax: 202/588-5185. [11169]

- **The Citizens Planning and Housing Assn. (Baltimore)** seeks a **Housing Director**. Ltr./ resume to Ricky Persad, CHPA, 218 W. Saratoga St., 5th fl., Baltimore, MD 21201, 410/539-1969, [ricky.persad@chpa-baltimore.org](mailto:ricky.persad@chpa-baltimore.org) [11170]

- **The Center for Law & Social Policy** (headed by former PRRAC Board member Alan Houseman) is seeking a **Policy Analyst** for its Paid Sick Days Initiative. Up to \$50,000. Resume/writing sample/refs/cover ltr to [job2@clasp.org](mailto:job2@clasp.org) [11188]

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## Poverty & Race Index, Vol. 17 (2008)

*This Index includes the major articles in the six 2008 issues of Poverty & Race (Vol. 17). The categories used frequently overlap, so a careful look at the entire Index is recommended. Each issue also contains an extensive Resources Section, not in the Index below, but available in database form for all 17 volumes. We can provide photocopies of any of the articles in the Index, and can also send an Index for any or all of the first 16 volumes of P&R (1992-2007). Please provide a self-addressed, stamped envelope. Articles are on our website, [www.prrac.org](http://www.prrac.org).*

### Race/Racism

523. "Martin Luther King, Jr. Holiday: How Did It Happen?," Jan. /Feb.
524. "Tax Aversion: The Legacy of Slavery", by Robin Einhorn, March/April
525. "Report from Geneva: U.N. Committe Reviews U.S. Record on Race," by Philip Tegeler, March/April
526. "Tensions Among Minority Groups?" May/June
  - "Racial-Ethnic Destinies," by S.M. Miller
  - "Great Cause for Optimism," by Wade Henderson
  - "Achieving Racial Convergence: A Leadership Challenge," by Don T. Nakanishi
  - "'Minority' is a Problem Concept," by john a. powell
  - "Understanding Commonalities," by Maria Blanco
  - "The Survey Blues," by Howard Winant
527. "The Worst Massacre of Blacks by Whites in U.S. History—  
—And the Lesson It Teaches Today," by Charles Lane, May/June
528. "The Kerner Commission: Remembering, Forgetting and Truth-Telling," by Bruce R. Thomas, July/Aug.
529. "American Indian Tribes and Structural Racism," by Sherry Salway Black, Nov./Dec.
530. "Indigenous People: Response to the Periodic Report of the United States to the United Nations Committee on the Elimination of Racial Discrimination," Nov./Dec.
531. "Tribal Self-Government in the United States," by John Dossett, Nov./Dec.
532. "Joint Resolution of Apology to Native People," by John Dossett, Nov./Dec.

### Criminal Justice

533. "Native Americans and Juvenile Justice: A Hidden Tragedy," by Terry L. Cross, Nov./Dec.
534. "The Cobell Trust Land Lawsuit," by Justin Guilder, Nov./Dec.

### Education

535. "How Colleges and Universities Can Promote K-12 Diversity: A Modest Proposal," by Julius Chambers, John Charles Boger & William Tobin, Jan./Feb.
536. "When the Feds Won't Act: School Desegregation, State Courts, and Minnesota's The Choice is Yours Program," by Myron Orfield & Baris Gumus-Dawes, Jan./Feb.
537. Promoting School Diversity Commentaries: March/April
  - "It Might Actually Work," by Pedro Noguera,
  - "Some Possible Changes, Critics and Cautions," by john powell
  - "An Important Step," by William L. Taylor
  - "A More Than Modest Proposal," by Wendy D. Puriefogy
  - "An Excellent Idea," by Richard D. Kahlenberg
  - "Rewarding Students by Nudging Adults," by Jenice L. View
538. "Settlement Announced in Hartford Regional School Desegregation Case," May/June

### Health

539. "A Matter of Racial Justice: The Alarming Disparities of Lead-Poisoning Rates in New York State," by Michael L. Hanley, Jan./Feb.
540. "Health Care for Indigenous People," by Michael Yellow Bird, Nov./Dec.

### Housing

541. "Public Housing Redevelopment: Balancing the Right to Return and the Right to Expanded Housing Opportunities," Jan./Feb.
542. "Statement of Fair Housing and Civil Rights Advocates on HOPE VI Reauthorization," Jan./Feb.
543. "Human Rights and the Demolition of Public Housing in New Orleans," March/April
544. "Renters and the Housing Credit Crisis," by Danilo Pelletiere & Keith Wardrip, July/Aug.
545. "Integration and Housing Choice: A Dialogue," Sept./Oct.
  - "Confronting Racial 'Blind Spots'," by Maria Krysan
  - "The Need for Multi-Faceted Policy Responses," by Ingrid Gould Ellen
  - "Who Will Live Near Whom?," by Camille Zubrinsky Charles
546. "Housing America's Native People," by Wendy L. Helgemo, Nov./Dec.
547. "Scapegoating Blacks for the Economic Crisis," by Gregory D. Squires, Nov./Dec.
548. "From 'Adverse Uses' to 'Moral Hazards'," William L. Taylor, Nov./Dec.

### Immigration

549. "21<sup>st</sup> Century Gateways: Immigrants in Suburban America," by Audrey Singer, Susan W. Hardwick & Caroline B. Brettell, July/Aug.
550. "Building a Labor Base for Immigrant Rights in New York City," by Jim Perlstein, July/Aug.

### Miscellaneous

551. Nobel Peace Prize for Pete Seeger? Jan./Feb.
552. "Greensboro's Radical Experiment in Democracy," by Signe Waller Foxworth, Nov./Dec.

### PRRAC Activities & News

553. (PRRAC Researcher Report) "Food Justice Activism in West Oakland, California," Jan./Feb.
554. (PRRAC Researcher Report), "Keeping Active, Keeping Safe: A Look at Participation in Structured Activities Among Working-Class and Middle-Class Families," by Pamela R. Bennett, Amy Lutz & Lakshmi Jayaram, March/April
555. (PRRAC Researcher Report) "Sentencing Enhancement Zones Fail to Protect Children, Do Increase Racial Disparities in Prison," by Aleks Kajstura & Peter Wagner, Sept./Oct.
556. New Witt Internship Award, Nov./Dec.

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