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## HOW TO EVICT DRUG DEALERS FROM PUBLIC HOUSING

### INTRODUCTION

Congress is funnelling over \$5 billion this year into maintaining and upgrading America's public housing projects. Yet Congress is doing relatively little to back Housing and Urban Development (HUD) Secretary Jack Kemp's efforts to stop the drug dealers who are degrading and destroying public housing projects.

Life has become unbearable for many law-abiding residents of these projects: Drug-dealing gangs vandalize once-habitable dwellings, terrorize residents, and press youngsters into the drug trade. Thanks in part to the epidemic of cocaine, crack, heroin, and other illegal drugs, many public housing authorities (PHAs) in the nation's larger cities now have double-digit vacancy rates, despite long waiting lists for admission.<sup>1</sup> The drug dealers' activities have made many of the vacant units uninhabitable and thus unavailable for lease.

**Terrified Tenants.** Residents of public housing projects indisputably need help. They cannot continue to live under the yoke of fear. One tragic event of several years ago, more than any other, highlighted the severity of the situation, and the need for concerted federal and local action. In that instance, a

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<sup>1</sup> See *The Silent Scandal: Management Abuses in Public Housing* (Washington, D.C.: National Center for Neighborhood Enterprise, 1991), Appendix F, pp. 27-28. In fact, several public housing authorities have vacancy rates in excess of 20 percent and one, Detroit's, has a rate of over 40 percent. The Detroit Housing Authority has some 1,300 eligible households on its waiting list. See "Public Housing in Detroit Criticized After HUD Tour," *Washington Post*, March 9, 1991.

well-known drug dealer, Jamie Wise, murdered police Corporal Charles W. Hill in March 1989 in an Alexandria, Virginia, project known as "The Berg." The projects' tenants were frightened, and long had been clamoring for the housing authorities to rid their project of known violent drug dealers. In the Alexandria project, Wise was known to residents as a one-man crime wave; he had over thirty felony convictions on his record before the bloody shootout in which he, as well as Officer Hill, died.<sup>2</sup>

**Kemp's Agenda.** One major reason that drug-dealers often make a public housing project their base of operation is that they can pursue their dirty business with little fear of eviction, and are able to enter and leave the premises virtually at will. Neither HUD Secretary Kemp nor law-abiding tenants are to blame. Indeed, HUD launched in 1989 its Drug Elimination Program (DEP). Created under the Anti-Drug Abuse Act of 1988, DEP gives grants to housing authorities to establish residential patrols and tenant drug education programs, among other activities. In addition, Kemp has ordered PHAs to terminate the leases of known drug dealers, has created a ten-point anti-drug plan for public housing, and has established the Office for Drug-Free Neighborhoods.

Kemp also has been pressing Congress to move swiftly to allow more public housing projects to set up tough resident management corporations (RMCs) and resident councils (RCs) to run the projects. These tenant groups have an excellent record in fighting drug dealers and enjoy the strong support of tenant leaders even in projects not having such organizations.

**Legal Obstacles.** The main reason that drug dealers still rule many housing projects is that HUD and law-abiding tenants are running up against a wall of legal obstacles. It turns out that certain self-styled "public-interest" lawyers, especially those receiving federal grants through the Legal Services Corporation (LSC), try to block reform at every turn. Their challenges to the constitutionality of allegedly arbitrary drug-related evictions have tied the hands of the housing authorities. The result: fearful tenants continue to be ruled by the drug lords.

It has become prohibitively time consuming and costly for many official project managers to evict known and violent drug users and dealers, or to reject applications for residence in public housing by individuals with prior drug convictions. In the name of civil liberties, these lawyers seem to be promoting the idea that residence in public housing is an inherent right for everyone, regardless of personal behavior. These advocates argue that drug-dealing public housing tenants, if evicted, would have nowhere else to live. This line of reasoning ignores three realities.

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2 See James P. Moran Jr., "High Noon in Alexandria: How We Ran the Crack Dealers out of Public Housing," *Policy Review*, Number 53, Summer 1990, pp. 78-81. Moran, a Democrat, then mayor of Alexandria, was elected to Congress in November 1990.

**First**, without action taken against such criminals, it is law-abiding tenants who in practice would have nowhere else to go. They are the real victims of the current system.

**Second**, taxpayers heavily subsidize public housing rents, and thus have a right to demand accountability in the management of all projects.

**Third**, whether or not they enforce their will with violence, drug dealers do have a shelter alternative: jail. Declares HUD Secretary Kemp: "I am determined that federal taxpayers will not be required to subsidize the rent of drug dealers and users or violent criminals. The only housing subsidies for felons should be provided by local jails, and state and federal prisons."<sup>3</sup>

Congress thus far has failed to address the problem of drug dealing in public housing sufficiently. By refusing to place limitations on the situations in which Legal Services attorneys can represent clients accused of drug dealing, Congress is undermining HUD's anti-drug activities.

Thus far, the most impressive gains made against the drug dealers have come as a result of resident management of the housing projects. Experiences from tenant-managed projects around the country — Kenilworth-Parkside (Washington, D.C.), Bromley-Heath (Boston), and A. Harry Moore (Jersey City), among others — demonstrate that when tenants have a direct and personal stake in managing their projects, they can transform dramatically drug-ridden wastelands into livable communities.

In these projects, residents, not professional managers or bureaucrats, maintain the premises, and collect the rent. At Washington's Kenilworth-Parkside, for example, drug pushers roamed the project's corridors and grounds at will prior to tenants assuming management from the Washington, D.C., housing authority in 1982. Four years after that, overall crime had fallen by 75 percent, with drug dealers finding out in clear terms that Kenilworth-Parkside was hostile territory.<sup>4</sup>

**Creating Communities.** Tenant organizations have kept drug dealers at bay because the organizations take a personal interest in the welfare of all tenants. They work from the outset at earning the trust and cooperation of their fellow residents; they let the residents know the standards expected of them, and enforce these standards; and they strive energetically to replace a welfare-dependency culture with an entrepreneurial culture. They want tenants to succeed as human beings, not as supplicants assigned living space. With few exceptions (the Chicago and the Omaha Housing Authorities are the two best known), PHAs do not respond effectively to tenants who want a stake in creating communities.

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3 Quoted in "HUD Plans Termination of Rental Aid for Tenants Involved in Drug, Criminal Activity," *Housing and Development Reporter*, September 4, 1989, p. 281.

4 See John Scanlon, "People Power in the Projects: How Tenant Management Can Save Public Housing," Heritage Foundation *Backgrounder* No. 758, March 8, 1990, pp. 6-7. In September 1990 residents of Kenilworth-Parkside took ownership to 132 units in the project.

Congress, in making public housing safe and livable, should do two things:

- 1) **Include tougher language than at present in the Legal Services Corporation Reauthorization bill (H.R. 2039) to increase the likelihood of eviction from public housing following confirmed drug use or distribution.**

While those arrested for drug-dealing and use clearly are entitled to their constitutional rights to legal representation, they should not enjoy special privileges to take advantage of a public benefit offered at the expense of the taxpayer. It is illogical for Congress on one hand to fund anti-drug programs for public housing, and on the other to fund attorneys who thwart its efforts to remove drug dealers. A recent report by the Legal Services Corporation (LSC) Office of the Inspector General, understanding the incoherence, recommends that Congress change H.R. 2039 to restrict the instances in which LSC grantees can defend persons accused of drug dealing.<sup>5</sup>

- 2) **Support Secretary Kemp's initiatives to encourage tenant management and ownership of public housing projects.**

The "HOPE 1" component of Kemp's Homeownership and Opportunity for People Everywhere (HOPE) program allows for transfer of management and ownership of public housing projects directly to RMCs and RCs. The program was enacted as part of the Cranston-Gonzalez National Affordable Housing Act of 1990. So far, however, Congress has not fully funded it, preferring to continue to spend large sums of money on public housing construction, some \$800 million in fiscal 1992.

Effective solutions to the problems of drug abuse in public housing ultimately will come from the tenants and management themselves. Washington can do its part, however, by crafting an empowerment strategy that allows tenants to rid their projects of people who are destroying them.<sup>6</sup>

## **DRUGS AND VIOLENCE IN PUBLIC HOUSING: A GENUINE EPIDEMIC**

Large and even medium-sized American cities are suffering a wave of drug dealing and related violence that exceeds even the appalling statistics of the 1980s.<sup>7</sup> The problem is especially acute in the nation's public housing projects,

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5 David L. Wilkinson, *Report on Investigation and Survey of Legal Services Corporation Funded Representation of Tenants in Public Housing in Certain Drug-Related Eviction Actions*, Washington, D.C.: Legal Services Corporation, August 28, 1991, henceforth referred to as "the Inspector General's Report." Wilkinson resigned his post as LSC Inspector General two months before public release of the report in November 1991.

6 See Carl F. Horowitz, "An Empowerment Strategy for Eliminating Neighborhood Crime," *Heritage Foundation Backgrounder* No. 814, March 5, 1991.

7 Tom Morganthau et al., "The War at Home: How to Battle Crime," *Newsweek*, March 25, 1991, pp. 35-38; John McCormick and Bill Turque, "Big Crimes, Small Cities," *Newsweek*, June 10, 1991, pp. 16-19.

where brutal drug dealers often exact the ultimate retribution—murder—upon other drug dealers and upon even housing authority security and maintenance workers who might stand in their way. Reports Lawrence Sherman, president of the Crime Control Institute, an anti-crime advocacy organization, “Gunfire is a daily occurrence in public housing in some areas of the country, such as New York and Chicago. There are children who go to school through a hail of bullets.”<sup>8</sup>

Tenants confront this devastation first-hand, and justifiably fear for their very lives. Says one mother in an Omaha project, who forbids her two children to play outside: “My little boy, he’s been in the middle of two shootings. My daughter picked up a needle on the way to school.”<sup>9</sup> In Birmingham’s Metropolitan Gardens project, the housing authority had evicted almost 170 residents for drug use and distribution over a six-month period during 1989-1990. Tragically, a 35-year-old mother in that project was killed by a stray bullet from a drug dealer.<sup>10</sup>

**Hand in Hand.** Drugs and violence go hand in hand, so it is little surprise that police drug seizures in public housing apartments frequently also turn up illegal firearms on the premises. In 1990, for example, the Chicago Housing Authority seized over 100 guns on the grounds of its projects, which house some 200,000 people. In one case, a tenant found in possession of drugs also had at the time of arrest a Savage 7.65 mm handgun, a .32 automatic handgun, and over 75 rounds of ammunition. Evicting that tenant took ten months.<sup>11</sup>

The drug dealers who prompt the violence operate in various ways. In some cases, they are public housing residents. In other cases, they have friends or family members who are residents whose apartments then are used as a place from which to do business. As members of an organized gang, dealers often simply take over a vacant apartment and establish headquarters there. It is also common for drug dealers to live outside a project, but establish “territory” there anyway, and prey upon the residents.

## HUD’S ANTI-DRUG POLICY UNDER SECRETARY KEMP

When Kemp became Secretary of HUD in February 1989 he made ridding public housing of drug dealers a top priority. He ordered HUD to take six initiatives to rid public housing of drug dealing. These are:

**1) The Drug Elimination Program (DEP), created under the authority of the Anti-Drug Abuse Act of 1988.** The program, funded for fiscal 1992 at \$165 million,

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8 Quoted in Inspector General’s Report, p. 11.

9 Quoted in *ibid.*, pp. 12-13.

10 *Ibid.*, p. 12.

11 *Chicago Housing Authority v. Mosley*, #89 M1-747595, Circuit Court of Cook County, Municipal Department, First District.

gives grants to public housing authorities and tenant groups. The PHA or tenant group submits a plan to HUD that indicates a community-wide approach for eliminating drug-related crime in order to receive funds. Eligible activities under the program include hiring security personnel, supporting resident patrols, reimbursing local law enforcement agencies for the extra cost of providing protection, installing fences and physical improvements to enhance security, and conducting tenant anti-drug education programs.<sup>12</sup>

**2) A declaration by HUD that tenants must keep free of drugs if their leases are to continue.** HUD told the PHAs and resident groups that this covered all users of the apartment — not just the individual or individuals named on the lease. Kemp reminded PHAs of Section 5101 of the Anti-Drug Abuse Act of 1988, which added the following language to all public housing leases:

A public housing resident, any member of the resident's household, or a guest or other person under the resident's control shall not engage in criminal activity, including drug-related criminal activity, on or near public housing premises, while the resident is a resident in public housing, and such criminal activity shall be cause for termination of tenancy.

The standard of proof for a tenant facing eviction is "a preponderance of evidence." The law is reasonable in its scope and application. It allows those admitting to an addiction, but who are not current users of illegal drugs, to remain in their apartment unless they have committed some other criminal offense.

**3) A waiver of the requirement in April 1989 that PHAs have to go through HUD's eviction appeal procedure.** These waivers, Kemp argued, would save authorities as many as twelve months of delay.<sup>13</sup> Since then, PHAs in 47 states and the District of Columbia have been granted waivers.

**4) A plan, unveiled in April 1989, to eliminate drugs from housing projects owned by or contracted with PHAs. This plan consists of ten general components:**

- ☞ Beefing up police security in public housing.
- ☞ Reducing the time required to evict criminals involved with drugs.
- ☞ Cooperating with the U.S. Attorney's local offices to seize leases to public housing units harboring illegal activity.

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12 U.S. Department of Housing and Urban Development, *Together We Can...Meet the Challenge: Winning the Fight Against Drugs* (Washington, D.C.: U.S. Department of Housing and Urban Development, April 1991), p. 43.

13 Susan F. Rasky, "Kemp Asks Repeal of Drug-Related Law," *New York Times*, July 11, 1989. The law in question here was a last-minute insertion into an appropriations bill that shortly thereafter was deleted.

- ☞ Requiring PHAs to make vacant units habitable quickly, or otherwise to make them inaccessible to drug dealers.
- ☞ Improving the quality of buildings and life generally in public housing.
- ☞ Establishing drug tip hotlines so residents anonymously can report illegal drug activity in their areas.
- ☞ Employing resident managers and encouraging resident organizations to promote and conduct drug prevention and education efforts.
- ☞ Terminating Section 8 rent certificate and voucher assistance to tenants who commit serious drug-related crimes.
- ☞ Encouraging use of Comprehensive Improvement Assistance Program (CIAP), Community Development Block Grants (CDBGs), and Drug Elimination Program funds for anti-drug activities.
- ☞ Establishing recreational programs for children and teenagers to discourage them from drug-dealing and use.

**5) HUD coordination of its anti-drug efforts through a special Office for Drug-Free Neighborhoods.** Created in June 1989, this office holds meetings with tenant organizations and helps them develop their own anti-drug activities. Asserts a HUD monograph, *Together We Can . . . Meet the Challenge: Winning the Fight Against Drugs*, "Local people are best positioned to solve local problems."<sup>14</sup>

**6) A new lease rule added in June 1990 that allows HUD to cancel leases of public housing tenants implicated in drug-related activities.** HUD and the U.S. Justice Department jointly are running this "asset forfeiture" program, created under the authority of the 1988 Anti-Drug Abuse Act. The law requires U.S. attorneys to obtain a court order from a federal judge before a tenant's lease can be seized. The order must be based on hard evidence of drug dealing.

While these six initiatives have been applauded by tenants who have been terrorized by the drug dealers, Kemp has run into stiff opposition from those lawyers who claim to work on behalf of anti-poverty groups. Many of these lawyers are affiliated with organizations receiving federal funds through the Legal Services Corporation. These attorneys claim that as long as much of public housing is in its current condition, tenants should not have to abide by basic lease provisions. Asks Florence Roisman of Washington, D.C., one of the most prominent of these lawyers: "Why should you pay rent to live in such disgusting, illegal, abominable places?"<sup>15</sup> Such observers, however, confuse cause and effect. It is the drug culture in these projects that helps make them so unmanageable and unlivable.

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14 U.S. Department of Housing and Urban Development, *Together We Can...Meet the Challenge*, p. 49.

Opposition to Kemp's efforts to end drug dealing in housing projects also has come from housing authority officials. They see the anti-drug programs as potentially diverting money from their pet operating and modernization programs. When Kemp first unveiled some of his anti-drug initiatives, then-executive director of the Washington, D.C.-based Council of Large Public Housing Authorities, Robert McKay, denounced them on just such grounds.<sup>16</sup> McKay, like Roisman, failed to understand that eliminating the illegal drug trade and its accompanying violence in public housing is a basic step toward making life bearable there.

## RADICAL LAWYERS: ENEMIES OF THE POOR

The means are available for rooting out and keeping out the most dangerous elements of society from public housing. Most housing authority officials want to take action. The problem is that eviction of people accused of drug-dealing can be costly, time-consuming, and in some cases nearly impossible, no matter how strong the evidence. Even where a tenant has been convicted of illegal activity, that person may remain in public housing for months, even well over a year, while lawyers wrangle. While many of the lawyers defending tenants convince themselves that every loophole and delaying tactic must be used to protect the innocent, the effect all too often is to make it impossible to evict the guilty.

Ironically, many of these lawyers are funded by the federal government through the Legal Services Corporation (LSC). The Legal Services program was established as a federal agency under the old Office of Economic Opportunity in 1965 by the Johnson Administration as a way to give the poor access to legal representation. The agency then was chartered as a quasi-independent corporation in 1974 under the Legal Services Corporation Act.

LSC makes grants, dispensing federal funds to 325 local legal organizations nationwide who represent Americans too poor to pay standard lawyers' fees. The Corporation's fiscal 1992 budget is \$350 million.

**Unstated Premise.** Organizations that receive grants from LSC claim to represent the genuine interests of the poor. Yet often they hurt the poor. This is what happens when LSC-affiliated lawyers bring suits against public housing authorities, wherever possible, to prevent evictions from public housing. The unstated premise seems to be that tenants of public housing who commit crimes are victims of society, and thus their continued residence in public housing is an unbreachable right.

Legal Services lawyers long have prevented screening and eviction by PHAs of many tenants responsible for much of the misery that plagues America's public

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15 Quoted in Rick Atkinson and Chris Spolar, "D.C. Public Housing: A Legacy of Despair," *Washington Post*, March 26, 1989.

16 Gwen Ifill, "Kemp's Anti-Drug Efforts Criticized," *Washington Post*, April 18, 1989.



housing. A special report released to the public in November 1991 by the Legal Services Corporation Office of the Inspector General indicates just how effective they have been. The study, authored by then-Inspector General David Wilkinson, was prompted by widespread complaints that LSC-funded lawyers were frequently defending persons faced with eviction for drug dealing in public housing, or delaying their eviction, if the initial eviction proceedings proved successful.

Among the more notable cases:

**Example:** In *Covington Housing Authority v. Rice, Hinkston, Sterling*, the Northern Kentucky Narcotics Department entered four public housing units with search warrants, and found large quantities of cocaine, cocaine paraphernalia, \$6,000 in cash, three handguns, and a 12-gauge sawed-off shotgun. Although five arrests were made, LSC attorneys successfully prevented tenant evictions.<sup>17</sup>

**Example:** In *City of Bridgeton Housing Authority v. Herrin*, a New Jersey tenant was convicted in September 1989 of possession and sale of narcotics. The local housing authority that November began eviction proceedings. After losing at the Superior Court level, the tenant filed an appeal on procedural grounds. Although the tenant was convicted for drug dealing, she was still in her public housing apartment eighteen months later.<sup>18</sup>

**Example:** In *Chicago Housing Authority v. Mosley*, a Chicago tenant was found in possession of cannabis or cocaine, a Savage 7.65mm handgun, a .32 automatic handgun, and over 75 rounds of ammunition. Yet LSC attorneys managed to delay that tenant's eviction by ten months.<sup>19</sup>

**Example:** In *Malden Housing Authority v. Rogers*, a Malden, Massachusetts, tenant found guilty of possession of cocaine and conspiracy to violate drug laws was sentenced to two years probation. The offenses occurred in May 1986, and the conviction occurred four months later. The Massachusetts Commission Against Discrimination, a tenants' grievance panel, and the Malden District Court each approved the eviction. Yet the convicted tenant remained in his public housing unit, and appealed the eviction to the Middlesex Superior Court with the help of LSC-funded attorneys. The case took four years, with the tenant able to sign lease extensions the whole time.

The housing authority eventually lost this eviction case on a technicality unrelated to the substantive evidence at hand. It turned out that an employee of the housing authority, in connection with one of the lease extensions, inadvertently had issued a rider to the lease that had nothing to do with drug possession or distribution. The Superior Court ruled that this rider created a new tenancy, and reversed the eviction. The tenant was permitted to remain in the project.<sup>20</sup>

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17 Inspector General's Report, p. 14. This particular housing authority does not assign case numbers to grievance proceedings.

18 Superior Court of New Jersey, Cumberland County, Special Civil, #89-T-1462.

19 Circuit Court of Cook County, Municipal Department, First District, #89 M1-747595.

The LSC Inspector General's Report uncovered 909 instances since January 1, 1989, in which a housing authority suspected drug use or sale occurring in a specific apartment, but sought eviction on other grounds (for example, nonpayment of rent). This was because in drug-related eviction cases, the housing authority faces an uphill and expensive task. The cost to a housing authority of pursuing an eviction typically is in the range of \$5,000 to \$7,000.<sup>21</sup> This is comparable to an entire year's per-unit federal operating cost and modernization subsidies to housing authorities having major drug problems.<sup>22</sup> Taking a tenant to court also is time-consuming. It usually takes several months from the time a tenant is discovered to be using or selling drugs until the time that tenant is brought to a hearing. Pending the outcome, the tenant is usually permitted to stay in possession of the apartment.

## WHAT CONGRESS SHOULD DO TO DISCOURAGE LEGAL SERVICES CORPORATION

It is perverse for Congress to appropriate money for one agency (HUD) to rid public housing of drug pushers, and money for another agency (LSC) to assist local legal organizations to keep these pushers from being evicted. Some have argued that the answer is to end all funding for the LSC.<sup>23</sup> But this finds few supporters in Congress. A more targeted and achievable approach would be for Congress to prohibit LSC lawyers from defending persons convicted of drug dealing in public housing eviction cases.

Congress also could declare in legislation that the standard of evidence in seeking an eviction is "a preponderance of evidence" rather than the "beyond a reasonable doubt" standard in criminal cases. This is because eviction is a civil, not a criminal proceeding. On occasion, the courts have used the "beyond a reasonable doubt" criterion to apply to civil eviction cases.<sup>24</sup> In a Georgia case, for example, the local housing authority presented sworn affidavits of two police officers attesting to the discovery of cocaine and marijuana on separate occasions in a tenant's apartment. Yet the court, ruling in favor of the defendant, argued: "As [she] has not been convicted of any Criminal charges, only charged, it is the ruling of this Court that she be allowed to remain in her apartment."<sup>25</sup>

Courts too often have misread this basic distinction between civil and criminal law because they have been influenced by LSC lawyers, who naturally argue that

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20 Malden Superior Court, 88-2879.

21 Letter from Jack Kemp, Secretary of HUD, to George W. Wittgraf, Chairman, Board of Directors, Legal Services Corporation, May 21, 1990.

22 National Center for Neighborhood Enterprise, *The Silent Scandal*, p. 25.

23 See, for example, Lewis K. Uhler, *Setting Limits: Constitutional Control of Government*, Washington, D.C.: Regnery Gateway, 1989, pp. 112-113.

24 Inspector General's Report, pp. 17-18.

25 *Alma Housing Authority v. Lassie Brinson*, Magistrate of Bacon County, Docket #89V180, quoted in *ibid.*, p. 18.

the stricter standard ought to apply. Notes Representative Chester G. Atkins, the Massachusetts Democrat, recognizing the issue at stake: "There are literally thousands of drug dealers around the country who have been arrested who are still in public housing because we don't have adequate mechanisms to get them out, even when there's a preponderance of the evidence, and even after a conviction."<sup>26</sup>

Congress should end confusion between civil and criminal law in its application to drug dealers or illegal drug users in public housing. A measure that could do this is H.R. 2039, which reauthorizes funding for Legal Services Corporation. H.R. 2039, introduced last April by Representative Barney Frank, the Massachusetts Democrat, was passed by the House Judiciary Committee last July, and is expected to go to a full-floor vote this spring. The bill addresses the public housing drug issue in this way:

No funds made available by or through the Corporation may be used for initiating the defense of a person in a proceeding to evict that person from a public housing project if the person has been convicted of the illegal sale or distribution is brought by a public housing agency because the illegal drug activity of that person threatens the health or safety of other tenants residing in the public housing project or employees of the public housing agency.

Such language, though superficially laudable, is flawed in four distinct ways.

**First**, it would bar funds to LSC for defending tenants in eviction cases only following a criminal conviction.

**Second**, it covers only convictions involving the sale or distribution of drugs, not their use.

**Third**, it refers only to persons who deal drugs, not all persons whose names appear on the lease to that apartment. Thus, LSC lawyers could continue to pursue cases where a household member is a convicted drug dealer, but where someone else's name is on the lease.

**Fourth**, public housing authorities seeking a drug-related eviction would have to prove case by case if the health or safety of residents or employees of the project had been adversely affected. For all practical purposes, this flaw alone would nullify the legislation's potential effectiveness.

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<sup>26</sup> *Ibid.*

## TENANT EMPOWERMENT: THE LONG-RANGE SOLUTION

Discouraging Legal Services attorneys from blocking reasonable evictions would tackle the immediate problem of gang-infested projects; empowering law-abiding tenants to control the criminal element in their projects is the long-term solution.

Experience from various tenant-run projects demonstrates that aggressive tenant managers can control projects more effectively than the PHAs. Explains Robert Woodson, president of the National Center for Neighborhood Enterprise, a Washington, D.C.-based think tank specializing in inner-city issues: "When people are given responsibility, they can set standards for themselves."<sup>27</sup> In St. Louis's Cochran Gardens, for example, tenants transformed a den for drug dealers into a showcase for how to run a safe and clean housing project. And in Chicago's notorious Cabrini-Green project, residents were given the right to manage one building. They now patrol the corridors and the lobby, having driven out the drug dealers and other criminals.

Putting control of the projects in the hands of responsible tenants keeps out dealers. Resident managers know who is dealing drugs or using narcotics. They frequently patrol the premises during evening and night hours, long after housing authority bureaucrats have gone home from work. They are thus in a better position to threaten guilty tenants with eviction. They typically inform all other members of that person's household, and press them to deal with the problem. If resident manager suspects a teenager of drug use or distribution, they notify the parents. Such action often nips the problem in the bud.

**Extending Resident Management.** Kemp is attempting to extend tenant management and ownership as far as possible. HUD recently has set a goal of having 250 resident groups receive management training by 1992.<sup>28</sup> Between 1988 and 1991 tenant groups received over \$12 million in funding for resident management programs; another \$5 million will be awarded this year. Of the 100 tenant groups initially funded, thirteen are fully operational as resident management corporations.<sup>29</sup>

Kemp recognizes that the housing shortage facing low-income Americans is not one of quantity. The public housing system, for example, contains over 100,000 vacant units; this represents a vacancy rate in the 1.4 million-unit system in excess of 7 percent. The lack of affordability instead lies with a welfare culture whose laws discourage both work and the formation of families. Lacking incentives to better their lives, public housing tenants often have little sense of respon-

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27 Quoted in Scanlon, *op. cit.*, p. 9.

28 "HUD Releases Biennial Report, Calls Efforts 'New War on Poverty,'" *Housing and Development Reporter*, January 6, 1992, p. 649.

29 *Ibid.*

sibility for keeping up their property, and engage in destructive (and self-destructive) behavior.

In fall 1990 Congress enacted the HOPE (Homeownership and Opportunity for People Everywhere) program as part of the National Affordable Housing Act. This legislation, building upon public housing resident management and ownership provisions contained in the 1987 Housing and Community Development Act, awards on a competitive basis grants to resident groups in public housing ("HOPE 1"), multifamily housing ("HOPE 2"), and single-family housing ("HOPE 3") projects.

HOPE 1 provides up to \$200,000 in planning grants for public housing tenant groups to develop homeownership programs. It is the centerpiece of Kemp's anti-poverty "empowerment" strategy. Curiously, support from Congress has been tepid. Congress appropriated only \$161 million for HOPE 1 for fiscal 1992, about one-fifth what it appropriated for public housing construction. The Bush White House, however, is seeking to give HOPE 1 a major push for fiscal 1993, proposing \$450 million for the program.

Congress seems even more reluctant to support a recent initiative that Kemp names "radical Perestroika" for public housing. Under this proposal, tenants living in projects owned by the 23 public housing authorities on HUD's "troubled" list would have the opportunity, on a project-by-project basis, to vote out the PHAs as managers and owners, and vote in new managers and owners, either non-profit groups or other government agencies.<sup>30</sup> The new program would also, under a feature Kemp calls "Take the Boards Off," enable RMCs, other non-profit groups, and state and local governments to assume ownership of substantially vacant public housing projects. All funds would be set aside from other existing HUD programs. Congress, if it is truly committed to eliminating poverty, ought to respond to the need for such residential choice among public housing tenants, who are the poorest of the poor.

As a show of support for Kemp's empowerment campaign, Congress should do the following:

- X Increase funding for HOPE 1 from its present \$161 million to \$450 million, as recommended by the Administration, and immediately cancel all further public housing construction.**
- X Reduce from three years to one year the minimum period in which tenant management organizations can assume ownership of their projects.**

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<sup>30</sup> For a summary of this plan, see Bill McAllister, "Kemp Urges Plebiscites for Projects," *Washington Post*, December 23, 1991. Originally, 24 housing authorities were on HUD's "troubled" list; HUD recently removed the Dade County (Miami) authority from the list.

**X Support Kemp's "radical Perestroika" plan.**

In these ways, public housing projects can become the kinds of communities that drug dealers and their customers readily understand to be off-limits to them. If all low-income urban neighborhoods were as vigilant in their anti-drug efforts as the various resident organizations managing and owning such housing, drug dealers one day may have no choice but to clean up their act for good.

## CONCLUSION

George Bush in his 1989 inaugural address correctly spoke of drug abuse in America as a "scourge." That scourge has been felt heaviest in public housing projects. Kemp is drawing the line against this scourge, declaring, in effect, that it will not stand. Kemp is promising that public housing will not be a safe haven for either drug dealers or their customers. He and his staff, especially in HUD's Office for Drug-Free Neighborhoods and the Office of the General Counsel, understand that public housing tenants, like other Americans, are entitled to live in a drug-free environment.

**Beating Drug Dealers.** Legislation reauthorizing funding for the Legal Services Corporation should contain language that clearly discourages all of its affiliated attorneys from defending convicted drug dealers and known users in eviction cases. This would aid in realizing the goal of drug-free public housing. Congress also should back Kemp's initiatives to empower tenants of public housing, transferring, wherever feasible, management, and, better still, ownership of the projects to them.

Experience teaches that where public housing tenants have a real stake in improving their own living environment, they will take on the drug dealers—and win.

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