FEDERAL REVENUE SHARING: VARIATIONS ON THE THEME "INNER CITY BLUES"

Nicki King

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The Rand Corporation
Santa Monica, California 90406
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Nicki King
The Rand Corporation, Santa Monica, California

INTRODUCTION

This country is in the midst of a period of policy change. The Democratic administrations of the 1960s brought forth "The New Frontier" and "The Great Society," which encompassed a multitude of social programs aimed at poor and minority groups in this country. The Republican administration of Richard M. Nixon has now begun to implement its own policies. What these policies are aimed at and how they will affect the American people in the long run will be subjects for speculation for some time to come. At this point, only one thing appears certain--there will be massive changes in the way services are delivered to poor and minority groups, if not in the services themselves.

The purpose of this paper is to examine one area of a new policy--federal revenue sharing--and to speculate on the impacts of its implementation on a specific segment of the population--the Black community. Since many of the policies of "The New Frontier" and "The Great Society" were addressed to this segment of the population, it is reasonable to assume that any massive changes in urban policy will have profound effects on this group. Therefore, all discussions of policy impacts will be addressed to their effects on this group.

REVENUE SHARING--HISTORICAL OVERVIEW WITH A MINORITY PERSPECTIVE

For more than 300 years, Black people in this country were enslaved. When the legal shackles of slavery were removed in 1865, they were replaced by the shackles of societal convention. Blacks legally could be denied equal rights, and in many states they were. In many cases, this denial of rights was not a matter of written legislation but of local practice. The federal government did not see fit to recognize these de facto shackles for almost 100 years after emancipation. Beginning with Brown vs. Board of Education in 1954, there was judicial recognition of the problem, and gradually legislative recognition.
The 1960s was a decade of social unrest in the urban centers of this country. Minority groups became more and more vocal and visible in the inner cities. The assassination of President Kennedy spurred the Congress to pass the Civil Rights Act of 1964 as a memorial piece of legislation. President Kennedy had sponsored a weaker piece of legislation with the same intent, and upon his assassination, President Johnson urged enactment of a much broader bill which included provisions for appeal and compliance, as well as for equal employment opportunity.¹

Full-scale urban riots broke out in Harlem three weeks after the bill was signed, followed by major race riots during the next four years in almost every large Northern city. Recognition of the urban problem was long overdue. Massive amounts of federal money began to pour into urban areas in an attempt to incrementally solve the problems caused by 300 years of neglect. Federal agencies began to grant monies to deal with specific problem areas. These funds were disbursed through departments, divisions and other units of federal government bureaucracy (thus the term 'incremental') and it was not unusual to find one local agency receiving funds from five to ten units of federal bureaucracy.² These federal aid programs and the monies they disbursed grew from 45 in 1960 to 435 in 1968; and from one billion dollars in 1946 to 34 billion dollars in 1972.³

In 1964, economist Walter Heller, anticipating a surplus in the federal budget, suggested that some federal tax dollars be redistributed to local governments to help them operate more efficiently.⁴ The anticipated surplus did not materialize, and the proposal was generally ignored, except by academicians, for the next five years.

²Moynihan, Maximum Feasible Misunderstanding, p. 93-94.
³National League of Cities, City Officials Briefing Book on Revenue Sharing, p. 16, and Moynihan, Toward a National Urban Policy, p. 5.
⁴Heller, New Dimensions of Political Economy, p. 120.
In 1969, President Nixon suggested that a plan of redistribution to local governments of federal funds be instituted. This plan came to be known as "revenue sharing." The rationale for the institution of such a program included the following assertions:

1. That the categorical aid program was an imposition of federal policy and decisionmaking on state and local governments. That state and local governments were therefore reluctant to undertake the solution of any problem for which there was no federal grant program.

2. That matching requirements for categorical grant programs limited local treasury efforts even further.

3. That the centralized nature of federal grant programs prevented instant reaction to a local crisis or to the end of a local need.

4. That categorical grants tend to be awarded in large urban areas, thus short-changing the small-town official who might not be up on the latest techniques in 'grantsmanship.'

5. That revenue sharing would provide fiscal relief to meet urgent state and local needs while stemming the rise in property and sales taxes.

6. That the proliferation of categorical grant programs had created as many problems as it was intended to solve.

Neither the administration bill, the subsequent bills proposed in the House and Senate, or the actual bill that was enacted (the State and Local Fiscal Assistance Act of 1972) proposed to end the categorical aid


7Hawkins, "Revenue Sharing," p. 3.

8Reuss, Revenue Sharing: Crutch or Catalyst? p. 83.

9Ibid., p. 84.


11Ibid., p. 34.
program. Instead, revenue sharing was proposed as additional support. However, in light of the subsequent austere budget allocations for categorical programs in the proposed budget for fiscal 1974, it seems that categorical grant programs will be at least sharply curtailed. Thus, many Congressmen who were 'for' revenue sharing have begun to complain bitterly as their pet programs are cut or drastically reduced from the budget.

Where these Congressmen thought additional monies were coming from is unclear. Indeed, no one ever formally addressed the issue of where the 'shared revenues' were coming from in the Congressional Record. Perhaps the hope of peace made larger budgeted amounts for domestic problems seem inevitable, but there seems to have been no recognition that without increasing the total amounts of money (as by raising taxes or reallocation from foreign programs), revenue sharing monies would have to come from categorical aid programs.

The categorical aid programs have admittedly been incremental attempts at solving massive urban problems. But they were focused on what decision makers perceived as specific solutions to urban problems. Perhaps those perceptions were wrong. Revenue sharing allows the local units of government to set their own priorities and devise their own solutions. For the most part, there are only the broadest of federal guidelines as to how they are to accomplish this. Many administration critics fear revenue sharing for this very reason. A review of one section of the Act may indicate why this is so.

REVENUE SHARING—A REVIEW OF THE LEGISLATION AND COMPLIANCE REGULATIONS

One of the broadest guidelines in the Act is the Anti-Discrimination Provision. This is of major concern because of the probability that revenue sharing may lessen the civil rights protections which have been

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12 "Do's and Don'ts on Revenue Sharing," Urban Affairs Reports Supplement, December 1, 1972, p. 11, par. 1700; National League of Cities, City Officials Briefing Book on Revenue Sharing, p. 33.

built into the categorical grants system.\textsuperscript{14} There is the possibility that without the detailed federal civil rights protections, states and localities will be unwilling or unable to avoid racial discrimination where revenue sharing funds are involved. Discrimination under revenue sharing could be of two varieties, \textit{complicit} and/or \textit{implicit}. In reviewing the legislation and accompanying regulations, first we will consider the complicit possibilities. \textit{Complicit} discrimination is defined here as the type of discrimination not prohibited in the legislation or its regulations.

The \textit{State and Local Fiscal Assistance Act of 1972} has a single civil rights provision, a repetition of Title 6 of the \textit{Civil Rights Act of 1964.}\textsuperscript{15} Title 6 is a broad prohibition on the use of Federal funds for projects in which racial discrimination is practiced. The revenue sharing provision extends the prohibition to sexual discrimination as well.

Par. 14, 762 Sec. 122. \textit{NONDISCRIMINATION PROVISION}

(a) \textit{IN GENERAL} -- No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under subtitle A.

(b) \textit{AUTHORITY OF SECRETARY} -- Whenever the Secretary determines that a State Government or unit of local government has failed to comply with subsection (a) or an applicable regulation, he shall notify the Governor of the State (or, in the case of a unit of local government, the Governor of the State in which such unit is located) of the noncompliance and shall request the Governor to secure compliance. If within a reasonable period of time the Governor fails or refuses to secure compliance, the Secretary is authorized (1) to refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) to exercise the powers and functions provided by Title 6 of the Civil Rights Act of 1964 (42 U.S.C. 200d); or (3) to take such other action as may be provided by law.

\textsuperscript{14}Joint Center for Political Studies, "Revenue Sharing and the Black Community," p. 8.

(c) AUTHORITY OF ATTORNEY GENERAL -- When a matter is referred to the Attorney General pursuant to subsection (b), or whenever he has reason to believe that a State Government or unit of local government is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such a relief as may be appropriate, including injunctive relief.

Revenue Sharing Regulations, an accompanying set of guidelines, explains the procedures more completely.16

Revenue Sharing Regulations, Par. 14,785, Section 51.32, Discrimination

(a) Discrimination prohibited. No person in the United States shall, on the ground of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with entitlement funds made available pursuant to subtitle A of Title I of the Act.

(b) Procedure for effecting compliance. (1) Whenever the Secretary determines that a recipient government has failed to comply with this section, he shall notify the Governor of the State (or, in the case of a unit of local government, the Governor of the State in which such unit is located) of the non-compliance and shall request the Governor to secure compliance, the Secretary is authorized to (i) refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted; (ii) to exercise the powers and functions provided by Title 6 of the Civil Rights Act of 1964 (42 U.S.C. 2000d); or (iii) to take such other action as may be authorized by law.

(2) An order pursuant to Title 6 of the Civil Rights Act of 1964 terminating or refusing to grant or continue entitlement payments shall become effective only after the procedures in subparagraph (1) of this paragraph have been complied with and:

(i) the Secretary has advised the recipient government of its failure to comply and has determined that compliance cannot be secured by voluntary means;

(ii) There has been an express finding on the record, after opportunity for hearing, or a failure by the recipient government to comply with a requirement imposed by or under this part;

(iii) The action has been approved by the Secretary; and

(iv) the expiration of 30 days after the Secretary has filed with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a full written report of the circumstances and the ground for such action; and

16"Do's and Don'ts on Revenue Sharing," Urban Affairs Reports Supplement, p. 42.
(v) the termination or refusal to grant or continue the payment of entitlement funds shall be limited to the particular recipient government as to whom a finding of noncompliance with this section has been made and shall be limited in its effect to the particular program or part thereof in which such noncompliance has been so found.

(3) No action to effect compliance with this section by any other means authorized by law shall be taken by the Department until:

(i) The Secretary has determined that compliance cannot be secured by voluntary means, and the recipient government has been notified of such determination; and

(j) The expiration of at least 10 days from the mailing of such notice to the recipient government. During this period of at least ten days, additional efforts may be made to persuade the recipient government to comply with this regulation and to take such corrective action as may be appropriate.

Note that the detailed laws and administration enforcement procedures applicable under other federal civil rights laws, such as the Fair Housing Act of 1968 and the Equal Employment Opportunities Act of 1964 are absent. The details of enforcement now fall largely to the states and the localities which generally have fewer laws, less effective enforcement mechanisms, and in some cases a lack of will to avoid racial discrimination. Also note the vagueness of definition of terms such as "discrimination," "reasonable period of time," and "such corrective action as may be appropriate." This type of language has a precedent for failure. For example, the 'all deliberate speed' exhortation of the Supreme Court decision Brown vs. Board of Education has led to little effective school integration in almost 20 years. In addition, note that the sanctions invoked for noncompliance only involve the termination of entitlement payments to a particular program in which noncompliance is found, and not to the entire unit of local government.

The question of sanctions is, of course, tied up with the procedure outlined in the sections below for fiscal management and the auditing of entitlement funds.

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Revenue Sharing Regulations, Par. 14, 788, Section 51.40 Procedures
Applicable to the Use of Funds

A recipient government which receives entitlement funds under the Act shall:
(a) Establish a trust fund and deposit all entitlement funds received in that trust fund. The trust fund may be established on the books and records as a separate set of accounts and shall be accounted for in a manner customarily followed in accounting for trust or other segregated funds, or a separate bank account may be established.
(b) Use or appropriate such funds (including any interest earned thereon while in such trust fund) within 23 months from date of the check, unless permission is obtained from the Secretary for a longer period within which the funds may be utilized. Permission for an extension of time . . .
(c) Provide for the expenditure of funds in accordance with the laws and procedures applicable to the expenditure of its own revenues.
(d) Use the fiscal, accounting, and reporting procedures relative to entitlement funds as are used with respect to expenditures made from revenues derived from its own sources. The fiscal accounts shall be maintained in such manner as to permit the reports required by the Secretary to be prepared therefrom.
(e) Provide to the Secretary and to the Comptroller General of the United States, on reasonable notice, access to and the rights to examine such books, documents, papers, and records as the Secretary may reasonably require for the purpose of reviewing compliance with the Act and regulations of this part or, in the case of the Comptroller General, as the Comptroller General may reasonably require for the purpose of reviewing compliance and operations under the Act.

Par. 14, 789, Section 51.41, Auditing and Evaluation

(a) Scope of Audit. The Secretary shall provide for such auditing, examination, evaluation, and review as may be necessary to insure that expenditures of entitlement funds by units of government comply with the requirements of the Act and regulations of this part. The scope of such review or examination shall include a review of the recipient government's accounting for entitlement funds with appropriate attention paid to verifying compliance with the requirements of the Act and regulations of this part.

(b) Reliance on State, County, or Municipal Auditors. The Secretary may rely on audits of entitlement funds by State, county and municipal auditors and examiners, and independent public accountants when in his judgment this may reasonably be done consistent with the provisions of the Act and regulations of this part. Such audits shall be performed in accordance with generally accepted auditing standards. Audit workpapers will be
retained for three years after the close of the first entitlement period unless released earlier by the Secretary. Audit workpapers will be made available to the Secretary and to the Comptroller General or to their representatives. Audit reports will be submitted to the Secretary of the Governor or chief executive officer when an audit report indicates a possible failure to comply substantially with any requirements of the Act or regulations of this part.

A review of the above sections of the Act and their accompanying regulations could well leave the reader in some confusion as a result of the vagueness of the language regarding "discrimination," as opposed to the specificity of language with regard to accounting and auditing procedures. In other words, the language suggests that the draft of the legislation appears to be very concerned about how the revenue sharing monies are spent and who will review the process, but not nearly so concerned about how the decisions were made to spend them or who was helped or hurt in the process. This type of vagueness in the legislation provides avenues whereby complicit discrimination can be practiced, with few or very weak sanctions imposed. The burden of proof appears to lie with the aggrieved party or parties who feel they have been discriminated against rather than upon the agency accused of such "discrimination."

Such confusion in definition of terms and lack of specificity does not exist in most of the other anti-discrimination laws. For example, Title 7 of the Civil Rights Act of 1964 (dealing with Equal Employment Opportunity) is quite specific with regard to compliance procedures and definition of unacceptable practices.19 Title 7 specifically forbade certain employment practices if they were based on grounds of race, color, religion, sex or national origin.20 Section 703 states that employers cannot discharge, or fail to hire, nor may be otherwise discriminate, based on the above reasons when discrimination is the intent. Employment agencies cannot discriminate or refuse to refer under the same conditions.

Labor organizations are guilty of an unlawful employment practice if they expel, exclude from membership, limit, segregate, or classify their membership, or discriminate in any manner which deprives the individual, or limits the individual of employment opportunities, according to the above criteria. Apprenticeship programs are also restricted in regard to discrimination.

This section also establishes bona fide occupational qualifications (bfoq) which are exempted from the unlawful employment practices of employers, labor organizations, apprenticeship programs, and employment agencies. A bfoq would encompass religion, sex, or national origin where they are reasonably necessary to the normal operation of that particular business or enterprise. It further explains that a bfoq is in order relative to religious and educational institutions when it is directed toward the propagation of that particular religion. An unlawful employment practice is not valid in questions regarding national security or membership in the Communist Party, or Communist-action type groups.

The section also allows for wage differentials relative to productivity, seniority, merit system, and plan location provided the intent is not to discriminate. It further allows the utilization of professionally developed employee tests provided they do not discriminate, whether intended or not. The color blindness issue which is basic to Title 7 is also dealt with. Employers, labor organizations, apprenticeship programs, and employment agencies are not to grant preferential treatment to any individual or to any group because of race, color, religion, sex, or national origin. So, while this title declares discrimination against as unlawful, it also outlaws discrimination for. This represented unparalleled explicitness in Civil Rights law.

The sanctions imposed for noncompliance were likewise far more stringent than those suggested in Revenue Sharing Regulations. As the first step in compliance, Title 7 established the Equal Employment Opportunity Commission as an advisory, conciliatory, and investigatory body. The title required the Commission to negotiate with offending employers in confidence and if negotiations failed to bring about compliance, the Commission was empowered to bring suit against the employer. If the Court found the respondent guilty of any of the practices listed above,
it could order cessation of the practice and reinstatement, promotion, or hiring of the employee(s), with back pay if applicable. Title 7 also empowered the Attorney General to bring suit without the waiting and negotiation periods required of the Commission. It also required those covered by the title (any employer of 25 or more, after 1970) to keep records as prescribed by the Commission and authorized the Commission to utilize State and local governments to facilitate this process.

Another example of relative clarity in definition and specificity of terms lies in the Fair Housing Act of 1968. The Act specifically describes 'discriminatory practices' and the sanctions which will be imposed if the act is not complied with.

... it shall be unlawful --

(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, or national origin.

(b) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, or national origin.

(c) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, or national origin, or an intention to make any such preference, limitation, or discrimination.

(d) To represent to any person because of race, color, religion, or national origin that any dwelling is not available for inspection, sale, or rental, when such dwelling is in fact available.

(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, or national origin.

The Act further outlaws any discrimination in the financing of housing or the provision of brokerage services. The enforcement provisions are lengthy, but generally they provide for: the filing of a written complaint by the aggrieved party, informal negotiations with the

respondent, commencement of civil action, investigation conducted by the Secretary of Housing and Urban Development, litigation conducted by the Attorney General, and, if the respondent is found in violation an aggrieved party is awarded actual and punitive damages, as well as court costs and reasonable attorney fees.

If the comparison of the anti-discrimination section of the revenue sharing act with civil rights legislation seems unfair, let us then examine the relative clarity and specificity of the language in different sections of the Revenue Sharing Act itself. We have already noted the clarity of the accounting and auditing procedures as compared to the vagueness of the anti-discrimination procedures.

Miscellaneous Provisions, Par. 14,763, Sec. 123, Items (6) and (7): 22

(6) All laborers and mechanics employed by contractors or subcontractors in the performance of work on any construction project, 25 percent or more of the costs of which are paid out of its trust fund established under paragraph (1) will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5) and that with respect to the labor standards specified in this paragraph the Secretary of Labor shall act in accordance with Reorganization Plan numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c);

(7) Individuals employed by it whose wages are paid in whole or in part out of its trust fund established under paragraph (1) will be paid wages which are not lower than the prevailing rates of pay for persons employed in similar public occupations by the same employer;

Unlike the nondiscrimination provision (which has a paragraph of its own in the Act), the language of this section is so concrete that it is restated almost verbatim in Revenue Sharing Regulations. 23 Specific codes are cited in the compliance procedures and those codes refer to specific labor standards. 24 The only code cited in the regulations

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22 "Do's and Don'ts on Revenue Sharing," Urban Affairs Reports Supplement December 1, 1972, p. 34.

23 Ibid., p. 42

regarding discrimination is Title 6 of the Civil Rights Act of 1964 (from which the discrimination provision is drawn). This raises the question of why specific civil rights laws and/or Executive Orders were not cited in the anti-discrimination provision or its attendant regulations. One also wonders why one of the weaker titles of the Civil Rights Act (with regard to clarity of language and sanctions to be imposed for noncompliance) was used for the Revenue Sharing Act rather than a stronger title (such as Title 7), if complicit discrimination was not one of the results of the State and Local Fiscal Assistance Act of 1972.

Enough of complicit discrimination; we now come to an examination of implicit discrimination, the type that is legally possible through certain uses of revenue sharing monies. First, let us look at what local revenue sharing monies can be used for:

1. Ordinary and necessary maintenance and operating expenses for:
   a. Public safety—includes law enforcement, fire protection, and building code enforcement
   b. Environmental protection—sewage disposal, sanitation, and pollution abatement
   c. Public transportation—transit systems and streets and roads
   d. Health
   e. Recreation
   f. Libraries
   g. Social services for the poor and aged
   h. Financial administration

2. Ordinary and necessary capital expenditures as authorized by law.\textsuperscript{25}

Under category (1), the major uses which have direct impacts upon the inner city (largely minority) are public transportation (transit systems only—minority groups are heavy users); health (the availability of health care is notoriously poor in the inner cities); and social services for the poor and aged (usually over-represented in the inner cities). Recreation impacts upon the inner city only peripherally, since land for open

\textsuperscript{25}"Do's and Don'ts on Revenue Sharing," Urban Affairs Reports Supplement December 1, 1972, p. 9.
space and parks is generally not available or prohibitive in cost. Note that there are no provisions for the following: Services to youth (day care centers, nutrition, gang violence abatement); education (allegedly to be covered later in Special Revenue Sharing); employment or manpower; or housing (also to be covered by a Special Revenue Sharing bill). Yet these are also legitimate 'urban problems' of the ilk that revenue sharing was allegedly devised to solve.

Because of the options possible under category (2), it is speculated that many local units of government will opt to spend their revenue sharing monies on capital improvements. There are two reasons for this: One reason is that at the end of the five-year review period, these kinds of expenditures will "look good because they are things you really can account for." Another reason, not often admitted, is that local units of government may be reluctant to spend the funds on programs for which funding is uncertain after the initial five-year period. They don't really want to commit themselves to being responsible for another political fiasco like the one Los Angeles recently faced with the closure of Economic and Youth Opportunity Agency (EYOA) or for perpetuating an inefficient model cities-type program that will (a) make them more vulnerable to public criticism; (b) make them more vulnerable to audit; or (c) leave substantial numbers of people without jobs or services at the end of the five-year period. In fact, one of the purposes of revenue sharing was to end HEW's open-ended social service program.

The use of revenue sharing monies for capital improvements, recreation, public safety, or environmental protection could lead to implicit discrimination. This is because these kinds of expenditures may have user groups that are the non-poor, non-minority residents of outlying city areas where the funds may well be expended. For example, the capital improvements program may be used to refurbish a City Hall. Certainly, this is a legitimate expenditure, if the City Hall needs it, but the user group of that modernized City

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27 Ibid., p. 1561.
28 Ibid., p. 1562; interview with City Administrative Officer in Los Angeles Area.
Hall is probably the middle-class worker who will then have an air-conditioned office. The user group certainly is not (in any significant way) the occasional visitor who may not notice that the surroundings have changed, and indeed, may not care if the quality of services delivered in that air-conditioned City Hall have not met his needs. The issue in question here is the priority set by use of revenue sharing funds.

As another example, the recreation program may be used to improve the quality of golf courses in city parks. Certainly, there are lots of golfing devotees who are entitled to an equitable use of their tax dollars, but golfing is largely a middle-class diversion, and those devotees are better able to afford costs for private recreational facilities than a poor inner-city resident (who may have never seen a golf course, much less afforded to play the game). By addressing the projects paid for with revenue sharing funds to a non-poor user group, the local official may be implicitly discriminating against a certain racial segment of the population. Similar cases could be constructed for the use of revenue sharing funds for public safety and environmental protection. Thus, priority setting by local officials may lead to implicit discrimination if the priorities set do not address themselves directly to those programs which revenue sharing will replace.

Likewise, substituting revenue sharing funds for federal programs where federal civil rights laws have been effective and state or local civil rights laws have been absent or ineffective could also result in discrimination.\(^{29}\) For example, if revenue sharing funds were used to supplement the police force payroll funds in a particular city where there were few minority policemen, revenue sharing might simply act as a reinforcement of the prevailing discriminatory hiring policies, even though there are federal statutes outlawing discrimination in hiring. Or, if revenue sharing funds are used for any of the ongoing expenditures described in category (1) above, and this use thereby frees city funds for some socially oriented program, as to build public housing in a locality

\(^{29}\) Joint Center for Political Studies, "Revenue Sharing and the Black Community," p. 11.
where there is no operant open housing law, revenue sharing funds may be used to discriminate implicitly.

From the above examples and analysis of the legislation, it should be clear that the State and Local Fiscal Assistance Act of 1972 makes a wide variety of discriminatory practices by State and local units of government possible. It is therefore imperative that care be exercised by local decisionmakers if they are to avoid discrimination.

Unfortunately, many local officials have not avoided discrimination in the past enough to give the minority community any assurances that they will do so in the future. It therefore may be necessary to alter the legislation already enacted and/or its accompanying regulations, as well as to insure that any future Special Revenue Sharing bills are much more definite in this area.

In order to effect these changes, any number of steps may be taken. The already enacted General Revenue Sharing legislation or any subsequent piece of legislation should be amended to cite Title 7 of the Civil Rights Act of 1964 as well as Title 6. Other civil rights acts or orders should be cited as necessary under the various uses allowed by Special Revenue Sharing. Alteration of existing regulations has already begun, and recently a task force of the Leadership Conference on Civil Rights submitted a letter to the Treasury Department calling for certain modifications.\textsuperscript{30} The letter suggests the following as added regulations:

1. The recipient must give an assurance that nondiscrimination requirements have been complied with.
2. The recipient must set forth facts showing the planned use does not and will not result in racial discrimination.
3. There should be language defining the equal opportunity responsibility and explaining the standard of performance expected.
4. The revenue sharing regulations should incorporate by reference all appropriate Title 6 regulations.

\textsuperscript{30} Ibid.
5. Detailed explanation should be given of compliance procedures to be used, including a requirement of data submission on race, ethnicity, and sex of program beneficiaries.

6. The governor, who has initial responsibility for enforcing the nondiscrimination clause, should submit a plan for enforcement to the Treasury Department.

7. The Secretary of the Treasury should have sanctions, including fund termination, for noncompliance with civil rights provisions.

8. All plans should be distributed widely in each community before they are forwarded to the Treasury Department.

On February 16, 1973, the Secretary of the Treasury proposed a set of new regulations to govern revenue sharing procedures. The discrimination procedures were clarified somewhat, and some specific discriminatory activities were prohibited. The only one of the above suggestions that the proposed regulations covers is (1) that the State or local unit of government must provide the Secretary of the Treasury with assurances that the nondiscrimination provisions have been complied with. In spite of the clarification of specific discriminatory practices to be prohibited, the proposed regulations are still toothless with regard to compliance, and even if noncompliance is found, entitlement funds will be withheld only from the program found to be discriminatory, rather than from the unit of government responsible for the program. It would appear that with such low risks involved, discrimination of the low-key, implicit type might well be prevalent under revenue sharing. Without the power to impose sanctions, the Treasury Department will be hamstrung in effecting compliance with these provisions.

CONCLUSION

The problems of discrimination are rampant in this country. It is only within the past 20 years or so that United States policies have begun to develop an awareness of how deep the roots of discrimination lie. The proliferation of laws, acts, and provisions in the "civil rights" area have served to improve the picture, but the fact that those laws were and are necessary proves that discrimination is not yet dead within this country. Federal revenue sharing represents an attempted return to "home rule" in a sense, because local control of heretofore federal domains has not been seriously attempted since the days of the Confederation. Even during the Civil War, only residents of a small group of Southern states regarded themselves as citizens of an area first, and of the United States secondarily. Consequently, decision making has been focused on the federal level, with the states and localities making whatever decisions were left to them. The philosophy behind revenue sharing promises to change this focus. This paper has concerned itself primarily with the impacts of revenue sharing upon a segment of the population which has been deeply affected by federal policy making in the past. The switch to shared decision making with the sharing of revenues will make this group far more dependent upon state and local policy making than it has been in the past.

There is no doubt that the minority groups will have to attain more political clout in the state and local arenas if they are to have any significant effects on the way federal revenue sharing monies are spent. They can no longer rely on federal policies alone to assure them of getting their fair share. The techniques of grantmanship and lobbying that got many minorities their first exposure to policy and decision making will have to be honed to deal with the sharper foci of state and local decision making. Only by developing these skills can minority groups be assured that they will not be discriminated against under federal revenue sharing. This skill development must be immediate. In fact, it is long overdue. Decisions are already being made that will shape the minority community and the environment in which it must operate for at least the next five years. The time for action was yesterday.
Books and Articles


Codes and Legal Cases


Davis-Bacon Act, 40 USC 276.

Fair Housing Act of 1968, 42 USC, p. 3061.

Fiscal Assistance to State and Local Governments--Entitlement Payments--Proposed Rule Making, 38 F.R. #35.