



**FAIR HOUSING and
FAIR CREDIT**

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FAIR CREDIT AND FAIR HOUSING IN THE WAKE OF THE SUBPRIME LENDING AND FORECLOSURE CRISIS: FINDINGS FROM THE KIRWAN INSTITUTE INITIATIVE

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The **Kirwan Institute for the Study of Race and Ethnicity** is a university-wide interdisciplinary research institute. We generate and support innovative analyses that improve understanding of the dynamics that underlie racial marginality and undermine full and fair democratic practices throughout Ohio, the United States, and the global community. Responsive to real-world needs, our work informs policies and practices that produce equitable changes in those dynamics.

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I. INTRODUCTION

In the fall of 2007, the Kirwan Institute initiated a comprehensive research initiative on the emerging subprime lending and foreclosure crisis and its impact on communities of color across the nation. In October of 2008, a month after the failure of Lehman Brothers, Kirwan held a national convening that drew together academic researchers, community advocates, fair housing attorneys, civil rights workers, and keynote speakers such as James H. Carr from the National Community Reinvestment Coalition, and Paul Hudson of Broadway Federal Bank. The convening was designed to comprehensively understand the roots of the crisis and to better arm advocates and policymakers with effective, strategic responses. The commissioned research and convening speakers emphasized the historical and geographic exclusion of communities of color from fair credit as a significant factor in the crisis.

The long-term development of unequal and underserved credit markets and their pent-up demand intersected with the development of modern, globally distributed financial instruments and the rollback of regulations designed to separate banking and finance functions and segment markets geographically. This increasingly monopolistic banking and finance landscape along with the global appetite for federally guaranteed securities fed increasingly irresponsible, and in some cases fraudulent and predatory, mortgage lending. When the housing bubble burst, borrowers began to default on mortgages largely untenable beyond their origination; the result was a massive wave of foreclosures which began to destabilize families, neighborhoods, and entire communities. It was not long before investors realized that the “guaranteed” securities they held were threatened by the extraordinary scope of mortgage defaults. These investors began runs on investment banks and ultimately, insurers. The failure of some investment banks and the government-engineered rescue of “too big to fail” financial institutions (including the predominant secondary-market insurers Fannie Mae and Freddie Mac) had begun.

In this context, the Kirwan Institute proposed that research on subprime lending and foreclosure be deepened to include a wider lens on banking, credit and finance inequalities, and the role of the secondary mortgage market (including Fannie and Freddie). The institute also recommended a targeted and strategic federal response and advocacy strategy. This document reviews the findings of this initiative, reflecting conversations with twenty-five diverse Advisory Board Members, fourteen in-depth commissioned works by leading academics and practitioners, and an in-person look at the fair housing and fair credit landscape in distinctly different regions across the country.

In partnership with fair housing and civil rights advocates, Kirwan co-hosted policy and advocacy strategy sessions in Washington, DC (with the Poverty Race and Research Action Council, the Center for Responsible Lending, the National Council of La Raza, the National Community Reinvestment Corporation, and the National Fair Housing Alliance), and in Oakland, California (with PolicyLink). In addition, Kirwan co-hosted presentations and feedback sessions with advocacy partners in Seattle, Washington (with the Northwest Justice Project), Austin, Texas (with Green Doors), Detroit, Michigan (with the Michigan Roundtable), and New Orleans, Louisiana (with the Greater New Orleans Fair Housing Advocacy Center). Kirwan was also a sponsor and presenter for the Connecticut Housing Coalition’s Annual Conference. The convenings drew representatives ranging from students to fair lending and community reinvestment advocates, local service providers, legal aid attorneys, community advocates, bankers, and members of the Federal Reserve branches of Atlanta (New Orleans), Cleveland (DC), and San Francisco (Oakland).

In Seattle, New Orleans, and Detroit, our policy feedback sessions were coupled with on-going initiatives. In Seattle, Kirwan staff rolled out Opportunity Maps of King County, Washington, and finer-scaled Opportunity Maps of Seattle, Washington. Subsequently, the Kirwan Institute received a grant

from the Northwest Area Foundation to continue its Opportunity Communities work in the region. In New Orleans, Kirwan staff rolled out a post-Katrina Opportunity Map of New Orleans overlaid with Section 8 housing projects. The maps showed that the majority of Section 8 housing opportunities post-Katrina is in the lowest-opportunity areas of the region. This work resulted in press coverage by the *New Orleans Times-Picayune*. Our event in Detroit complemented the Michigan Roundtable's on-going commitment to address regional equity and housing in Metropolitan Detroit. This convening served as a kick-off to the newly formed Housing Project Partnership, a collaborative effort to understand structural racism and identify policy recommendations to create a more equitable region. The follow-up meeting of the Housing Project Partnership took place on January 25th, 2010.

The remainder of this document is divided into the following sections:

- I. SUMMARY FINDINGS AND RECOMMENDATIONS
- II. HOW DID WE GET HERE? A BRIEF HISTORY OF THE SUBPRIME LENDING AND FORECLOSURE CRISIS
- III. WHERE ARE WE NOW? THE VIEW FROM THE GROUND
- IV. BIG PICTURE CHALLENGES AND SOLUTIONS FROM STRATEGISTS IN WASHINGTON, DC AND OAKLAND, CA
- V. EVALUATIONS OF CURRENT FEDERAL RESPONSES TO THE CRISIS
- VI. WHAT SHOULD WE DO FROM HERE? PRINCIPLES FOR FAIR CREDIT AND FAIR HOUSING REFORM
- VII. IN HINDSIGHT: WHAT WE MISSED

SECTION II provides an overview of findings from the initiative, with detailed recommendations for local and national action. **SECTION III** gives a very brief overview of the contributors to the subprime lending and foreclosure crisis: the landscape of racial and socio-economic inequality; financial innovation and deregulation; rising income and wealth disparities and the banking response; and a lack of adequate consumer protections. **SECTION IV** reviews the findings from papers commissioned to address the consequences of the crisis in four cities: Minneapolis, Boston, Cleveland, and Sacramento. It also summarizes feedback from local convenings in Seattle, Austin, Detroit, and New Orleans. **SECTION V** relates big picture challenges identified in two meetings that brought together leaders in fair housing, fair lending, and civil rights: one in Washington, DC and one in Oakland, CA. **SECTION VI** offers evaluations of the federal response to the crisis, including specific looks at NSP and TARP. **SECTION VII** offers guiding principles for fair credit and fair housing reform. **SECTION VIII** concludes with what we did not explore fully enough, and what remains to be done.

I. SUMMARY FINDINGS AND RECOMMENDATIONS

First, regional contexts and local relationships matter A major focus of this initiative was to better understand the local consequences of the subprime lending and foreclosure crisis, the prospects for fair housing and fair credit in different markets across the U.S., and their implications for federal policy. We held convenings with advocacy partners in Seattle, Washington (with the Northwest Justice Project), Austin, Texas (with Green Doors), Detroit, Michigan (with the Michigan Roundtable), and New Orleans, Louisiana (with the Greater New Orleans Fair Housing Advocacy Center).

The convenings revealed that the delivery of fair credit and fair housing, even in this age of globalization (and in a world of de-personalized, web-based services), is about local relationships, particular places, and their histories. People at every meeting noted distrust, racism, shameful histories of exclusion, and the withdrawal of relationship banking as negatively affecting mainstream financial inclusion. People who use alternative financial services are often driven to them by immediate need and convenience coupled with the historical memory of unfair treatment, inflexibility and remoteness of mainstream financial institutions. Each region will have different paths to fair credit and fair housing, dependent on local political will, the strength of the local economy, the local presence (or lack of) fair housing and fair credit choices, the presence and cooperation of diverse advocacy groups, and the face-to-face relationships that characterize (or used to characterize) relationship banking and the housing search.

For example, in terms of barriers to sustainable credit, Seattle participants pointed to the profits banks stand to make on fee-based transactions, and the aggressive marketing of financial products with confusing and complex “fine print.” Austin residents foregrounded the lack of access to information and education on financial products, particularly for immigrants. Detroiters were overwhelmed by job loss in the face of the Big 3 automaker implosion and the lack of financial options for people. New Orleans residents noted that regional financial health is seasonal and dependent on a badly damaged tourist economy, and that people were steered to the seemingly ubiquitous subprime and high-cost products. Therefore, communities’ priorities for achieving fair credit differed: Seattle prioritized legal enforcement of existing consumer protection laws; Austin wanted a “community intermediary” to better serve borrowers; Detroit looked to alternative models of credit mapped to their community needs; and New Orleans advocated for higher wages, especially in the tourism industry.

What the convenings did have in common was the expression of a readiness to make radical change. People are ready to try something truly new and/or aggressive – from demanding a more inclusive community development process (Seattle), to challenging the lack of fair housing support and protection from federal agencies (Austin), to alternative banking and credit institutions (everywhere), to alternative homeownership models (Detroit). Unfortunately, opportunities to act are limited by local organizations’ thin resources. Reviewing the landscape of local fair housing agencies, Rick Cohen finds that “the picture is one of very small, relatively undercapitalized organizations trying to address a multitude of fair housing challenges.”

Recommendations:

- *Recognize that the paths to fair credit and fair housing will differ according to regional context and local history. Take local impediments to fair housing and fair credit – racially discriminatory history, proliferation of predatory credit, resistance to mainstream institutions – seriously.*
- *Understand the differences among local economies, community infrastructures, and marginalized populations.*

- Assist local and regional fair housing and community reinvestment activists in their efforts to organize, mobilize, and lobby.
- Promote local, multi-partner pilot projects that are mission driven to affirmatively promote fair credit (like the National League of Cities' "Bank On Cities" initiative).
- Connect fair housing, fair lending, community reinvestment, civil rights and other advocacy groups (financial reform, faith-based, labor, etc.) at the national, state, and local levels to promote comprehensive consumer protection, fair credit and fair housing reform. Reverse the "silo" approach. We found that cross-sector connection was most needed at the state and local levels.

Second, local efforts should be supported by a federal platform of consumer protections and a federal commitment to affirmatively promote fair credit and fair housing for all our citizens Each convening, while reflecting local priorities, resources, resistance points, and targets, demonstrated that we have suffered a systemic failure. This failure is reflected by a lack of meaningful credit and neighborhood choices for people of color; a basic lack of jobs, income, and wealth for marginalized people and communities; and a lack of consumer protections. As dedicated as they are, local groups cannot go at it alone, particularly when the deck is stacked against them.

Federal agencies must step up enforcement of existing fair credit, fair lending, and fair housing laws and they must provide robust consumer protection and education. Federal agencies must also do their part to affirmatively further fair housing through all their relevant programs and entities, encouraging the affirmative provision of sustainable credit where predatory alternatives predominate. People should be able to make and implement meaningful choices regarding fair financial options and fair housing. For this to happen, they must have a range of options, and only an affirmative commitment to fair housing and fair credit will make these options materialize. This affirmative duty should be measurable – goals should be set, data should be assessed, and policies that are not working should be corrected.

Recommendations:

- Support the creation of a Consumer Protection Financial Agency and give it adequate resources and enforcement power.
- Promote regulatory reform of the product, rather than the institution. For example: we should regulate mortgages, full stop; currently, we regulate some of the institutions that originate them, but not others.
- Rework and "re-brand" the CRA into an updated, comprehensive tool to promote the provision of sustainable credit products to the people and neighborhoods that most need them.
- Recognize and enforce the duty to affirmatively further fair housing in relevant federal agencies and programs including ARRA programs, HUD, the reconfigured Fannie Mae and Freddie Mac, and community development and foreclosure mitigation programs.
- Support a research and advocacy work-group focused on the racial justice and fair housing opportunities of a reconstituted Fannie Mae and Freddie Mac. This focus is currently entirely absent – a dangerous oversight, considering that as of the second quarter of 2009, Fannie, Freddie and FHA purchased or guaranteed 9 out of 10 new mortgages.
- Press for better and more comprehensive data (race, gender, and geography) for all federal spending programs, including stimulus funding.
- Expand HMDA data reporting requirements to include loan term information (borrower interest rates, credit scores, loan reset periods, balloon payments, ARM margins and indices, and loan product underwriting).

- *Enact a comprehensive, nationwide plan to protect renters from foreclosure.*

Third, we must compellingly communicate what a fair and just 21st-century economic system looks like, and what kind of financial system can support it (see Manuel Pastor, Rhonda Ortiz, and Vanessa Carter, *Sustainable Advocacy for Fair Credit and Fair Banking*, in the Appendix). We must not focus solely on how to “fix” the mortgage system or salvage individual homes (although mortgage lending regulation and foreclosure relief is important), but the wider set of conditions that allowed for systemic failure. The subprime lending and foreclosure fiasco (and the concomitant worldwide economic volatility) is a manifestation of global inequality and unfair access to banking and financial services, not an isolated anomaly or the fault of a handful of fraudulent lenders and borrowers. As Pastor, Ortiz and Carter write:

Our point is simple. While we do need a new policy package, such advocacy also needs to be embedded in a broader social movement for financial justice. The focus should not simply be on foreclosure relief, but on a new financial frame that has at its heart the restoration of opportunity for all.

Unfortunately, we often lack the data we need, lose the messaging war, and fail to connect advocates across domains to work together for change. The narrative of this crisis as a failure of individual responsibility and/or an overreaching government is only growing. Financial reform is erroneously framed as separate from (and even in competition with) political advocacy around jobs, education, and health care, rather than as a related outcome of unfair access to opportunity. The crisis has complex roots and disengaging terminology (“collateral debt obligations,” “cram-down,” etc.), which can be difficult to connect to everyday, on-the-ground realities.

Recommendations:

- *Contribute to a national communications effort around the importance of adequate consumer protections against financial predation, the provision of sustainable financial alternatives, and the danger of excluding a majority of American workers from a solid financial future.*
- *Explore the potential for fundamental changes to regulation and financial incentives. Current incentives are perverse – they promote credit products inherently more likely to fail or result in punitive fees to those least able to manage them.*
- *Support the national networks of fair housing, community reinvestment, fair lending and financial reform movements to increase their advocacy effectiveness. Promote connections among these groups as well.*

The federal response has largely triaged the economic damage wrought by the crisis without yet addressing its underlying causes. Policy responses have focused on salvaging the existing monopolistic banking landscape – Wall Street profits and bonuses have snapped back into place in record time -- while policies created to protect consumers, extend credit to underserved populations, and stabilize neighborhoods are receding from view. From our perspective, the federal lack of focus on predatory or unsustainable credit “alternatives,” and the racially and geographically demarcated lines along which they are distributed, is an analytic and strategic mistake. The “Financial Crisis Inquiry Commission,” a bi-partisan Congressional commission created to investigate the causes of the crisis, listed twenty-two areas of interest, *not one of which* was the history of racial segregation in credit markets, redlining, predatory lending targeted to communities of color, or the like.¹

Meanwhile, entire neighborhoods and even entire communities, like post-Big 3 Detroit and post-Katrina New Orleans, stand on the edge of a complete unraveling of homeownership and asset-building opportunity, of continuing economic marginalization and deterioration, and eroding fair housing opportunities. Extraordinary people are coming together in these communities to dream of a new future and a new way of working, saving, borrowing, and supporting collaborative and participatory neighborhood planning. However, they feel undercut by the lack of federal enforcement of existing fair housing and fair credit laws, the saturation and complexity of predatory financial tools, and the lack of (or limited scale of) alternative financial institutions such as mission-driven credit unions.

Unfortunately, this crisis isn't new, nor is it over. People of color have been excluded from wealth-building opportunities via homeownership continuously throughout our history: First, from the outright denial of credit and residential racial discrimination of the 1930s to the 1960s; second, from the federally-sponsored urban renewal programs of the 1960s and 1970s that disrupted and scattered urban minority residents and businesses; and lastly, from the subprime lending and foreclosure crisis of the 2000s that has cost communities of color up to a quarter of a trillion dollars in home equity. Loan modification disparities may be the aftershock of the subprime earthquake, further entrenching the disparate loss of home ownership and equity-building opportunities for people of color. Policies must be re-structured to encourage healthy, sustainable and fair credit and housing markets, and to better protect consumers.

The consequences of our unfair credit and housing markets and our lack of consumer protections have been devastating. Community stability, social mobility, family health, and individuals' ability to retire, invest, pay for medical bills, and send kids to college – they are all at risk. Nothing short of our collective future is at risk, and nothing short of a long-term, multi-faceted effort to affirmatively promote integration into opportunity for all of our people is required.

II. HOW DID WE GET HERE? A BRIEF HISTORY OF THE SUBPRIME LENDING AND FORECLOSURE CRISIS

The need to analyze and act at the global, national, and local scales is evidenced by the macro-economic transformations of finance and banking, the growth of inequality, U.S. deregulation and lack of consumer protections, and the local landscapes of segregation and inequality that resulted in separate and unequal credit markets. This section briefly summarizes each of these developments, drawing largely on our previous research on the roots of the crisis and a commissioned work for this initiative by Gary Dymski (see Appendix for Dymski's full paper, *Understanding the Subprime Crisis: Institutional Evolution and Theoretical Views*).

a. *The landscape of inequality*

Over half a century ago, a vast expansion of homeownership, led by New Deal legislation, was limited largely to all-white neighborhoods in suburban, new housing stock – underwriting criteria devalued or refused to insure integrated, minority, or old housing stock neighborhoods.² These racially discriminatory federal guidelines were then absorbed into private market practices. Refusing to extend credit to low-income communities of color became known as “redlining” due to the red lines drawn on property maps that indicated “hazardous” (no loan) areas. Although *de jure* racial segregation in lending is no longer legal, the patterns and practices of discrimination in housing markets have persisted into the 21st century.³ With little residential or commercial lending from mainstream banking institutions for decades, isolated communities of color have suffered from high-cost credit institutions that have little competition: payday lenders, rent-to-own, check cashing, and most recently, subprime home loans. Without competitive credit institutions, families lack information about options, making them primary targets for subprime lending.

Present-day subprime mortgage brokers targeted these communities not out of personal racial animosity, but because these neighborhoods were starved of prime credit entirely, or because families were “equity rich but cash poor,” with paid-off homes but unmet credit needs (such as college tuition or medical expenses) -- a condition that drove subprime refinancing growth.⁴ Termed “reverse redlining,” the targeting of credit-starved neighborhoods is and was possible because prior redlining had isolated these communities from mainstream banking and lending.

The Reinvestment Fund found that neighborhoods in Philadelphia and Baltimore which had the greatest concentrations of people of color received the highest percentages of subprime loans.⁵ Federal Reserve studies in 2004, 2005 and 2006 found disparities in the rate that minorities (and those living in neighborhoods with significant minority concentrations) received subprime loans.⁶ Subprime loans had a distinct geography even down to specific loan terms, such as prepayment penalties. Rural and minority neighborhoods were more likely to receive prepayment penalties, even after controlling for a set of underwriting factors.⁷ This geography of exploitation may partly explain why borrowers of color were more than 30 percent more likely to receive a higher-rate loan than white borrowers, even after accounting for differences in risk.⁸

b. *Globalization, Banking and Finance Innovation, and Deregulation*

Globally, the mortgage crisis was fed by the worldwide appetite for securitized debt, including mortgage debt. This required standardizing mortgage underwriting and origination on a large scale (which resulted in automated underwriting and the parallel decline of relationship banking), and the institutional underwriting/guaranteeing of credit debt. As Dymski notes, soaring subprime lending took

place at a time of global financial market integration and U.S. financial and economic dominance: “The transition from the old housing-finance system to the new was accomplished at a time when the U.S. was both the principal global source of reserve currency and a preferred safe haven. In addition, it occurred while the U.S. had huge current-account deficits, which have necessitated systematic capital-account inflows” (Dymski, 7).

The transformation of housing finance was the shift from lenders issuing mortgages in order to hold them to maturity to lenders making mortgages simply to sell them (an “originate and distribute” model). As Dymski points out, this shift did not require new institutions; it did, however, require a deep secondary mortgage debt market. FNMA, FHLMC, GNMA and private underwriters became critical players in the new system. Indeed, they remain critical institutions despite the question of how the government sponsored entities (GSEs) now in conservatorship will be structured. Standardization and a deep secondary market also allowed non-bank, non-thrift lenders to originate mortgage debt (Dymski, 7).

Unfortunately, these new lenders, including independent mortgage brokers, were not subject to the same regulations and oversight as banks, such as the Community Reinvestment Act. Despite erroneous claims that CRA fostered ill-advised subprime lending, in the peak years of the housing bubble (2005 and 2006) only 6% of subprime loans were extended by CRA-covered lenders in their communities to lower income borrowers or neighborhoods.⁹ In fact, the CRA helped banks develop expertise on extending sustainable non-traditional loans. A former head of community development for JP Morgan Chase reflected:

CRA has helped to harness the skills, expertise, and operational capacity of banks to create products and services which benefit lower income communities, and have worked for the banks from a business point of view—a proverbial win/win. As a result of CRA, banks have gained a better understanding of market opportunities in low- and moderate-income communities; they have developed in-house expertise needed to structure non-traditional loans in a prudent way; and they have joined together to support third-party (often not-for-profit) loan funds set up specifically to serve this marketplace. (Willis, *Give Credit Where Credit Is Due: An Approach to Revamping CRA*, 3).

CRA loans were “outcompeted” by the alternative products that emerged from standardization, modernization, and critically, changes in federal legislation. Three pieces of legislation are largely credited for setting the stage for a rise in subprime and predatory lending: The Depository Institutions Deregulation and Monetary Control Act of 1980 (DIDMCA), The Alternative Mortgage Transaction Parity Act of 1982 (AMTPA), and the 1986 Tax Reform Act.¹⁰ DIDMCA effectively eliminated states’ interest rate ceilings on home mortgages where the lender has a first lien. Two years after DIDMCA, the Alternative Mortgage Transaction Parity Act (AMTPA) was passed. AMTPA preempted state statutes that regulated alternative mortgage transactions, such as those with balloon payments, variable rates, and negative amortization. Subprime lending did not grow significantly, however, until after the Tax Reform Act of 1986. Under TRA86, taxpayers could no longer deduct interest from consumer loans, but could deduct interest on loans secured by the taxpayer’s principal (and one other) residence.

Under these conditions, subprime lending grew 900 percent from 1993-1999, while other mortgage lending activity actually declined (Dymski, 12, citing HUD 2000). Mortgage brokers themselves created some of the “demand” for subprime mortgages – a *Wall Street Journal* article in 2007 suggested that in 2005, 55% of people with subprime mortgages had credit scores high enough to qualify for conventional loans; in 2006, this figure rose to 61% (Dymski, 16).

c. Lack of consumer protection

Meanwhile, no federal regulatory agency was explicitly tasked with consumer protection as a mandate, and those that could have intervened in systemic risky behavior failed to do so. As Greg Squires notes in his defense of the proposed Consumer Financial Protection Agency,

Two factors compromise consumer protection under the current regime. First, the financial regulatory agencies that currently have authority to enforce fair lending and related consumer credit laws have other primary motivations. Consumer protection is, at best, a secondary consideration (Warren 2009) ... A second problem is regulatory arbitrage. Regulatory agencies are funded by the fees paid by the institutions they oversee. If lenders perceive their regulator is too aggressive, they can and do change their charter and seek out a more “sympathetic” regulator (Warren 2009, Geithner 2009). Such “shopping” clearly serves as a disincentive to enforce consumer protection laws and leads to a race to the regulatory bottom (Squires, *The Consumer Financial Protection Agency: Key to Safety and Soundness and Consumer Protection*, 5).

d. Income and Wealth Polarization and the Banking Response

The growth of unfair and unequal credit grew up alongside not only the banking and finance modernization of the late 20th century, but a four-decade widening of income and wealth inequality¹¹ that has created a relatively small group of extremely affluent people who are offered the best and most robust financial services, and a huge (and growing) group of unbanked and underbanked families with intermittent or low-income jobs and few assets. In short, many more people in the U.S. saw their incomes stagnating or declining while costs continued to rise -- and their demands for credit grew. In fact, “[l]ending to lower-income customers has expanded faster than lending to middle- and upper-income customers” (Dymski, 14). Dymski reviewed data from Survey of Consumer Finances and found that low-income households have had surging levels of debt without proportionate increases in asset levels from 1992-2004. This pattern has racialized contours: over half of all African American households and over 4 in 10 Latino households are either unbanked or underbanked (Dymski, 11, citing FDIC December 2009 study). These are the primary clients for alternative services, such as check-cashing, money orders, money remittances, and payday loans. People use payday lending in part to get away from NSF fees at big banks and to avoid high late fees for rent, credit-card, and utility payments (Dymski, 13, citing Blair 2005). The majority of payday loan customers are banked (payday clients must have a checking account) but earning under \$50,000; African Americans and military families are overrepresented.

These families are unable to meet increasingly expensive education, health care, and housing costs, and thus are increasingly in need of credit. When we led a discussion in Detroit around the future of fair housing and fair credit, the work group identified *unemployment* as the major barrier to sustainable credit, touching on the wider structural barriers to opportunity such as a basic lack of employment opportunities and income. In fact, the FDIC’s recent study on unbanked and underbanked¹² households reported that “[n]ot having enough money to feel they need an account is the most common reason why unbanked households are not participating in the mainstream financial system.”¹³ The study also reveals that people of color are far more likely to be unbanked and underbanked: for example, African Americans are seven times more likely to be unbanked than Whites.¹⁴

The new model that banks have developed to serve lower-income and lower-wealth customers depends largely on fees. Mortgage companies first shifted from interest to fee-based income by originating loans to sell, not hold; banks then followed suit with other products (Dymski, 8). Much media and

congressional attention has been focused in the latter half of this year on debit and credit card fees. A little-covered but enormous global profit maker for non-bank institutions is the remittance market. Remittances (funds that workers send back to their families in their country of origin) are the largest interactions between immigrants and the financial sector, yet most of the transactions are through non-bank entities that charge high fees. As the Appleseed network notes, “the segregation of this \$47-billion market has large negative consequences for the remitting population, including weak consumer protections, a lack of access to other banking products and a waste of asset-building opportunities” (see Appendix for Appleseed summary). In any instance, the shift to a fee structure actually *worsens* the financial outlook for most families. From the subprime mortgage prepayment penalties to credit card fees to insufficient funds fees to remittance fees, the individuals shouldering the punitive fees are those least able to bear the burden.

III. WHERE ARE WE NOW? THE VIEW FROM THE GROUND

A major focus of this initiative was to better understand the local consequences of the subprime lending and foreclosure crisis and the prospects for fair housing and fair credit in different markets across the U.S., and their implications for federal policy. We commissioned several works that looked at particular places and populations (Jeff Dillman on fair housing challenges in Cleveland; Deyanira del Rio on the effect on immigrants in New York; Hannah Thomas on asset stripping in Boston; Mark Ireland on renters in North Minneapolis; and Jesus Hernandez on the legacy of redlining in Sacramento). We also held convenings with advocacy partners in Seattle, Washington (with the Northwest Justice Project), Austin, Texas (with Green Doors), Detroit, Michigan (with the Michigan Roundtable), and New Orleans, Louisiana (with the Greater New Orleans Fair Housing Advocacy Center), and we were sponsors and presenters for the Connecticut Housing Coalition’s Annual Conference. And in partnership with fair housing and civil rights advocates, Kirwan co-hosted policy and advocacy strategy sessions in Washington, DC (with the Poverty Race and Research Action Council, the Center for Responsible Lending, the National Council of La Raza, the National Community Reinvestment Corporation, and the National Fair Housing Alliance), and Oakland, California (with PolicyLink).

a. Papers reflecting local conditions and their implications for federal policy

In his commissioned work, Mark Ireland documents the threat to largely unprotected renters who must find new homes and new schools for their children when they face eviction from landlord foreclosure. Ireland’s original research showed that rental properties comprised 61% of all the foreclosures that occurred in North Minneapolis in 2006-2007; Ireland also found that households with children were disproportionately affected. Almost 40% of foreclosed addresses had children in the Minneapolis public schools, and 60% of the school children were African-American. Looking at lending patterns, Ireland found that subprime lenders did a disproportionate amount of lending in North Minneapolis and that prime lenders did disproportionately little lending. While the latter finding may seem obvious, it in fact points to the lack of choices for residents in these neighborhoods and the importance of an affirmative extension of sustainable credit options into neighborhoods currently overrun with non-prime and often predatory options. Looking at the status of the properties post-foreclosure, Ireland made alarming findings: 83% of the foreclosed properties had, on average, eight 911 calls post-Sheriff’s Sale. A vast majority of the calls occurred when the property was under control of either the mortgage loan servicing company or the person who bought the property from the servicing company. Clearly, the foreclosed properties pose a significant safety hazard to the neighborhood. Ireland concludes with a call for a comprehensive, nationwide plan to protect renters facing foreclosure.

Hannah Thomas’ work considers the consequences of foreclosure to individuals and families, starting with the immediate loss of the home and the stress associated with home loss, moving beyond that into “asset stripping” or raiding cash savings and retirement accounts to try to stay in the home. (See Thomas, *An Ethnographic View of Impact: Asset Stripping for People of Color*, in the Appendix.) Thomas found that foreclosure usually began with some combination of unaffordable mortgage plus loss of a job, divorce, or other economic hardship. That is, people were keeping current with payments until some sort of financial shock. Usually the asset stripping resulted in a draining of savings but only temporarily held off foreclosure (or sale of the property at a loss). In her sample, 47% of homeowners depleted their 401Ks; the vast majority depleted their savings to try and save the home. Thomas writes that many black and Hispanic families were in fact now worse off than if they had not tried for homeownership with subprime loans. Foreclosure results in a negative impact on credit scores (which can, in turn, impact insurance rates, the ability to rent an apartment or get a new loan, and even get a job), the need to move and change kids’ schools, and stress. Having drained their own personal savings,

retirement funds, or children's college funds to try and salvage the home -- only to have to sell at a loss or go into foreclosure -- people are now unable to finance their own retirement, their kids' college expenses, etc. This results in a negatively impacted *future* – a net loss for social mobility:

These stories represent an unknown, but likely important percentage of homeowners who are currently in foreclosure in Boston's communities of color. They represent families who were slowly working towards middle-class status – college education for themselves with 401K plans, college aspirations for their children, and growing levels of homeownership. The reality is that as this foreclosure crisis worsens, more of these families who had been gaining some social mobility will be losing their financial footing, sliding back into a financially precarious situation.

Thomas suggests that policy needs to incentivize prime mortgage originators to extend credit to communities of color, and to address the lack of trust that people have with mainstream banks. She also suggests that mortgage originators take into account *asset vulnerability* of borrowers, and that we think of ways to collectivize risk, such as community resource pools that people can draw on when they encounter financial emergencies.

Jeff Dillman argues that the underlying assumptions driving policy decisions over the last thirty years is that the market does a better job than government on evaluating risk, offering alternative products, and regulating itself (see Dillman, *Subprime Lending in the City of Cleveland and Cuyahoga County*, in the Appendix). As the subprime lending crisis has shown, the market did a poor job on all fronts. In fact, Dillman points out that the incentives in the subprime market were perverse: people less likely to be able to sustain a loan were given products inherently more likely to default. Further, the premiums paid to unregulated brokers were based on both interest rates (which incentivized brokers to put people into higher rates than they qualified for) and loan principal (which incentivized brokers to encourage financing up to 100% of the home loan and/or financing other loans like credit card balances into the home loan), making the mortgage product even more risky. Lastly, the fact that the loans were sold or securitized immediately after origination decreased any investment the mortgage originator had in the sustainability of the loan. In a revealing examination of the data, Dillman showed that in Cleveland, increased subprime lending existed alongside a continued disparity in denial rates (access to credit) and high-cost loans (terms of credit). In a similar study that looked at metropolitan areas across the U.S., Wyly et. al. found that those places with the highest loan denial rate had the highest shares of high-cost subprime lending (Wyly et. al. 2008: 9). The authors concluded that subprime credit does not actually reduce the problems of unequal denial and exclusion; it in fact exists alongside continuing market segregation (Wyly et. al. 2008: 20).¹⁵

Dillman's paper suggests that either we have to counter the conservative narrative that defends the market as the best allocator of benefits and burdens, or we have to structure the market in such ways that we incentivize integration, accessible housing, and reduced discrimination – again, incentivizing the *affirmative* provision of fair credit and fair housing in a deregulated market.

Jesus Hernandez suggests that not only did markets fail to deliver on their promise of better alternative products and risk evaluation, markets can become a vehicle for social exclusion. Hernandez posits that financial deregulation was in fact a response from the financial sector to legislative demands for broader access to credit. "Bank deregulation," Hernandez writes, "played a key role in converting racially defined residential space from a place of exclusion to the new site for capital extraction" (Hernandez, 16). Hernandez researched the wave of foreclosures in Sacramento County, California. Hernandez shows how federal policy and private actions at several scales created the conditions for market vulnerability in Sacramento's non-white neighborhoods. Hernandez recounts the use of racially restrictive covenants, urban "renewal" projects (which disrupted a neighborhood of color called the

West End and dispersed its minority entrepreneurs, many of whom failed upon relocating), and discrimination in rental housing to create racially segregated neighborhoods with varying access to credit. In two particularly hard-hit neighborhoods, home values have plummeted to as much as 80% of their mid-2006 peak. Investors are moving quickly into these neighborhoods, purchasing 25-50% of the foreclosed properties in low-income areas.

Hernandez recommends expanding HMDA reporting requirements to keep pace with industry innovation. This means that all financial institutions and their affiliates that generate loans should be required to report data, and that data should include loan term information (borrower interest rates, credit scores, loan reset periods, balloon payments, ARM margins and indices, and loan product underwriting). Second, Hernandez recommends that federal bailout programs that result in loan modifications should have a data reporting and transparency requirement as well.

Deyanira Del Rio shows how the current mortgage and foreclosure crises have affected immigrant communities, with a focus on New York City. Her work identifies barriers to fair lending among immigrant communities and describes specific abusive practices leveled at low income and undocumented immigrant homebuyers. Del Rio finds that noncitizen and undocumented immigrants face increasingly formidable obstacles to securing mortgages and housing on fair terms, including the recent decline in Individual Taxpayer Identification Number lending, the charged political debate around immigration reform, and the absence of explicit federal fair housing protections prohibiting discrimination based on citizenship or immigration status. Ensuring equitable access to mortgage and housing markets among immigrants – who represent the fastest-growing segment of the U.S. population – will be critical to stabilizing the national housing market and ensuring future housing demand.

Del Rio recommends the following: (1) Expand and enforce fair housing and fair lending laws, focusing increased attention on discriminatory practices affecting immigrants; (2) Jointly issue clear guidance to financial institutions affirming the legality under existing laws to open bank accounts and provide loans – including mortgages – to individuals regardless of their immigration status; (3) Educate regulated institutions on ways to offer equitable access to all communities within safety and soundness of banking laws, and to comply with the spirit of the Community Reinvestment Act and other statutes; (4) Evaluate the extent to which banks meet the credit needs of immigrant communities in Community Reinvestment Act examinations; and (5) Examine banks for possible discrimination against foreign-born individuals.

Janeen Comenote of the United Indians of All Tribes Foundation and the National Urban Indian Family Coalition explores the housing challenges for American Indians and Alaska Natives. She reports that in an eight-state community based research project, over 1,200 urban-dwelling Native people were interviewed in four major metropolitan areas regarding a number of poverty indicators, including access to housing. Respondents cited credit checks, low income, lack of affordable housing stock, background checks, and deposits/down payment requirements as barriers to housing. Further, nearly every city represented in the National Urban Indian Family Coalition reports a disproportionate number of Natives in shelter care but very few transitional housing projects serving the Native community. Comenote recommends a comprehensive examination of the current housing crisis for the off-reservation Native population, with a focus on the equitable distribution of resources compared to the disproportionate local representation in the homeless populations. There is also very little current information on best practices and strategies for increasing access to credit by Native populations either on or off reservation.

With respect to policy, Comenote recommends the following: (1) Fund and support the continued development of Native community development financial institutions (CDFI); (2) Explore policy regarding requiring predatory lending institutions and banks to contribute to a general fund designated

specifically for financial literacy education, and specify that a percentage of the fund go to tribal governments and Native nonprofit organizations; and (3) Fund an Indian community development block grant through HUD or Administration for Native Americans (ANA) for tribal governments and Native non-profits to build economic capacity and literacy in their communities.

b. Advocacy convenings with partners in Seattle, Austin, Detroit, and New Orleans

In addition, this fall, we held four open convenings with partners in Seattle, Detroit, Austin, and New Orleans, to solicit residents' views on the impact of the crisis and the future of fair credit and fair housing in their community. Each group was asked to brainstorm a list of barriers and solutions to fair credit, neighborhood revitalization, and opportunity-based housing in the wake of the crisis. They then prioritized their top barriers and solutions for each topic. While we planned these trips with the expectations that we would find some differences, we were struck by just how different the sets of conversations were.

In terms of barriers to sustainable credit, Seattle participants pointed to the profits banks stand to make on fee-based transactions and the aggressive marketing of financial products with confusing and complex "fine print." Austin residents foregrounded the lack of access to information and education on financial products, particularly for immigrants. Detroiters were overwhelmed by job loss in the face of the Big 3 automaker implosion and the lack of financial options for people. New Orleans residents noted that regional financial health is seasonal and dependent on a badly damaged tourist economy, and that people were steered to the seemingly ubiquitous subprime and high-cost products. Therefore, communities' priorities for achieving fair credit differed: Seattle prioritized legal enforcement of existing consumer protection laws; Austin wanted a "community intermediary" to better serve borrowers; Detroit looked to alternative models of credit mapped to their community needs; and New Orleans advocated for higher wages, especially in the tourism industry. The discussions revealed that the delivery of fair credit is about local relationships, particular places, and their histories – people at every meeting noted distrust, racism, shameful histories of exclusion, and the withdrawal of relationship banking as negatively affecting mainstream financial inclusion. Beyond issues of trust and access, people mentioned the punitive fee structure of mainstream banks. In other words, people who use alternative financial services were often driven to them by either lack of options or bad treatment from mainstream institutions.

The discussion around neighborhood revitalization tended to involve a shared set of concerns regarding the neighborhood planning process; specifically, who was involved in the process, how the City managed the process, how accountable elected and administrative officials were to residents, and how to address racism and exclusion. Interestingly, despite these shared concerns over process, the paths to inclusive revitalization differed in each place: Seattle called for stakeholder involvement early in the process, Austin prioritized an integrated vision for planning and development, Detroit pressed for resident education, and New Orleans voted for leadership change. Barriers to opportunity-based housing (affordable housing in high-opportunity neighborhoods) included traditional barriers to affirmatively furthering fair housing; discrimination and "NIMBY"-ism, a lack of inclusionary developments, and the high cost of development in high-opportunity neighborhoods. However, the cities again differed in their priorities for addressing the problem. Seattle called for more deliberate siting of affordable housing, Austin proposed aggressive legal action against the City and State for its failures to affirmatively further fair housing, Detroit called for an entirely new "toolbox" of financial and development strategies, and New Orleans advocated for a public education campaign around affordable housing and how it could

benefit so many of New Orleans' workers. The discussions around neighborhood revitalization and fair housing opportunity identified a set of similar challenges, but different paths to move ahead. Housing opportunity, like access to fair credit, is dependent on local planning and implementation.

In Seattle, New Orleans, and Detroit, the feedback sessions were coupled with on-going projects in those regions. In Seattle, Kirwan staff rolled out Opportunity Maps of King County, Washington, and finer-scaled Opportunity Maps of Seattle, Washington. Attendees reviewed the maps, discussed the findings, and made suggestions for improvements, including adding certain data sets and indicators (maps are included in the Appendix). The maps are currently being revised for re-submission to the Northwest Justice Project. In New Orleans, Kirwan staff rolled out an Opportunity Map of New Orleans overlaid with Section 8 housing projects. The maps showed that the majority of Section 8 housing opportunities post-Katrina were in the lowest-opportunity areas of the region, resulting in press coverage by the New Orleans *Times-Picayune* (Maps and press coverage in the appendix and here: <http://www.gnofairhousing.org/opportunity.html> and <http://www.nola.com/news/t-p/frontpage/index.ssf?/base/news-13/1261809609187170.xml&coll=1>). The meeting in Detroit complemented the Michigan Roundtable's on-going commitment to a truth and reconciliation framework to address regional equity and housing in Metropolitan Detroit. Our convening served as a kick-off to the newly formed Housing Project Partnership, a collaborative effort to understand structural racism and identify policy recommendations to create a more equitable region. The follow-up meeting of the Housing Project Partnership was January 25th (full materials from the meeting are in the Appendix).

While each convening reflected local priorities, resources, and resistance points, taken together they demonstrate that we have suffered a systemic failure. This failure is reflected by a lack of meaningful credit and neighborhood choices, a basic lack of income, wealth, assets and savings, and a lack of consumer protections, particularly for marginalized communities and people of color. Each region will have different paths to fair credit and fair housing – indeed, the provision of fair housing and fair credit is still largely a *local* affair, dependent on local political will, the strength of the local economy, the presence and cooperation of diverse advocacy groups, and the face-to-face relationships that characterize (or used to characterize) relationship banking and the housing search. However, these local efforts must be supported by a federal platform of consumer protection and a commitment to affirmatively promoting fair credit and fair housing for all our citizens.

Another striking thing that all the convenings had in common was the readiness to make change. People are ready to try something new – from demanding a more inclusive community development process (Seattle), to challenging the lack of fair housing support and protection from federal agencies (Austin), to alternative banking and credit institutions (everywhere), to alternative homeownership models (Detroit).

FOUR CITY CONVENING COMPARISON CHART

City	Seattle (Northwest Justice Project)	Austin (Green Doors)	Detroit (MI Roundtable)	New Orleans (GNOFHAC)
Date	October 30, 2009	November 6, 2009	November 10, 2009	December 11, 2009
Sustainable Credit Barriers	<p>1 Banks profit from subprime loans</p>	Access to information	Unemployment	Large number of low-income residents; lack of money to be banked
			Lack of financial options (tie)	
	<p>2 Complexity of transactions</p>	Education (including immigrant)	Lack of relationships with citizen-bankers	Steering to subprime product; check-cashing more available than banks
	<p>3 People don't trust banks; racism</p>	Discrimination	Intentional bank discrimination and targeting	Lack of financial literacy; no formal banking relationships
		Lack of alternative options (tie)	Lack of responsibility from banks for crisis (tie)	
Topic	Seattle (Northwest Justice Project)	Austin (Green Doors)	Detroit (MI Roundtable)	New Orleans (GNOFHAC)
Sustainable Credit Solutions	<p>1 Legal enforcement of existing laws</p>	Intermediary at community level to ensure equal treatment of similarly situated borrowers	Alternative models of credit mapped to community needs	Higher wages (especially for tourism industry)
	<p>2 Smaller, local or mission-driven banks (micro-banks, non-profits, credit unions)</p>	Partnership between health insurers, housing (connection between bankruptcy and health insurance status)	Opportunity with Detroit housing stock at low prices	More affordable housing
	<p>3 Enforce usury law</p>	Collaborations (city, NPO's)	Local lending; micro-credit	Micro-lending programs to increase lending to LMI neighborhoods
Topic	Seattle (Northwest Justice Project)	Austin (Green Doors)	Detroit (MI Roundtable)	New Orleans (GNOFHAC)
Neighborhood Revitalization Barriers	<p>1 Lack of inclusion of residents in process</p>	City planning process	Racism and history (job segregation, etc.)	No way for citizens to hold city, neighborhood plans accountable
		Lack of local resources (i.e. few local affordable housing developers; weak philanthropic community); lack of resident education and trust (tie)		
	<p>2 Lack of access to public policy leaders; minority underrepresentation</p>	Different neighborhood types need different approaches	"Spatial mismatch" (jobs not in neighborhoods of need)	Lack of city-wide vision and coordination; no sense for developers to know how to participate in redevelopment
		What is community aspiration?; Austin reality; lack of affordable housing (tie)		
	<p>3 Fragmentation of similar interest groups</p>	N/A	Lack of investment in Detroit (risk aversion)	Departments lack capacity despite availability of funds for programming
	Revitalization is not creating new local jobs (tie)		Cost of rehab > cost of demolition (tie)	
Topic	Seattle (Northwest Justice Project)	Austin (Green Doors)	Detroit (MI Roundtable)	New Orleans (GNOFHAC)
Neighborhood Revitalization Solutions	<p>1 Stakeholder involvement early in planning process</p>	Integrated vision for planning and development	Education	Leadership change at all levels: -Accountability -Reality check -Policies on BIDs

	2	Cultivate community leaders at grassroots level	Education opportunities	Employment	Establish priorities and then align budget with those priorities (provide adequate resources). Educate public on budget process.
			Inclusive housing, smart housing policies (tie)	Re-think CRA (tie)	
	3	Dedicated organizations to generate collaborative action (move past 'niche' limits)	Robust civic engagement	Lack of people of color in solutions (foundations, development assistance)	No follow-through: lots of plans, no action (tie)
			More local funding & resources; leadership innovation; stronger civic organizations (tie)		Increase community control over decision-making process; introduce mechanisms to account for race and class (tie)
Topic <i>Opportunity-Based Housing Barriers</i>		Seattle (Northwest Justice Project)	Austin (Green Doors)	Detroit (MI Roundtable)	New Orleans (GNOFHAC)
	1	Discrimination -- all levels	Higher cost in high-opp'y neighborhoods	Lack of inclusionary developments	NIMBY-ism is huge
			NIMBYism; High-opp'y neighborhoods given "free ride" (tie)	Lack of knowledge of available units (tie)	
	2	Housing prices, rents in high-opportunity areas Lack of enforcement of existing law; housing search support barriers (tie)	Affordable housing not reaching intended market	People don't think there is a market for market-rate homes	No housing policy (What type? Where? What does it cost?)
	3	N/A	Low-income people pushed out of city Micro-inflation from Austin boom; affordable housing is clustered in low-opp'y areas; gov't housing programs are inadequate (tie)	Lack of affordable units in suburbs	Increase in cost of housing (40% for rental)
			Seattle (Northwest Justice Project)	Austin (Green Doors)	Detroit (MI Roundtable)
Topic <i>Opportunity-Based Housing Solutions</i>	1	Be more deliberate in housing "site" methods	Aggressive legal methods -- sue the City and State	New economic/financial toolbox	Public education campaign on what affordable housing really is
	2	Make housing more central in community planning (approach as regional issue)	Come to terms with "gated community, Disneyland" phenomenon Spend more \$\$ on affordable housing in high opp'y areas; prioritize public owned land for affordable housing; link job opp'ys with housing oppy's (tie)	Create inclusionary dialogues/agendas	Inclusionary zoning: LA has the option for cities to adopt IZ but none has
	3	N/A	Affordable housing targets for each neighborhood in city Promote more "sweat-equity" models; enforce existing fair housing statutes; educate people on integration; "sue the ba****rds" (tie)	Separate out issues to break out interests	Strengthen tenant protections at state level

IV. BIG-PICTURE CHALLENGES AND SOLUTIONS FROM STRATEGISTS IN WASHINGTON, DC AND OAKLAND, CA

In November and December, we co-hosted policy and advocacy strategy sessions in Washington, DC and Oakland, California. These sessions provided a unique insight into the challenges shared by the fair lending, fair housing, community reinvestment, research, and civil rights advocacy groups on both coasts. These challenges are discussed below.

Data: the missing link

We do not have complete and publicly available data on mortgage loan performance, mortgage delivery channels, borrower demographics, loan modifications, and credit scores that would enable better research, policy design, and policy advocacy. Even the Federal Reserve does not have full access to loan performance data. There is no nationally standardized, publicly available foreclosure data. We do not have data on the quality and sustainability of loan modifications, nor do we know who falls out (and why) between the temporary and permanent loan modification programs. The Treasury Department should be tracking how its grantees and recipients are using their funds to affirmatively further fair housing. Treasury is reporting some data on the HAMP program, but the data is aggregated and cannot be used for detailed analysis. [Fannie Mae is currently collecting data as an agent of the Treasury, another reason to focus on the new organization and mandate of the GSEs.]

Advocacy: messaging and relationship building

The speed of the crisis has not allowed time for relationship-building among economic justice, social justice, fair lending, civil rights, and fair housing movements. These relationships are becoming better nurtured in Washington, D.C. (our convening being an example), but are often absent at the state level. The question of state-level advocacy relationship-building was key in California.

We are losing the messaging war. First, the narrative of this crisis as a failure of individual responsibility (the rant on MSNBC) and/or an overreaching government (i.e., erroneously blaming the CRA for the crisis) is only growing. Second, this issue is framed as separate from (and even in competition with) political advocacy around jobs, education, and health care, rather as a related outcome of unfair access to opportunity. Third, the crisis has complex roots and disengaging terminology (“collateral debt obligations,” “cram-down,” etc.), which can be difficult to connect to everyday, on-the-ground realities. We face an extraordinarily well-funded financial industry that has deep pockets to pay for effective lobbying. As Rick Cohen’s paper makes clear:

If anyone thinks the banking sector has politely accepted billions in TARP funds with the shameful admission of responsibility for the economic mess this nation faces, look again. Financial sector lobbying against new federal consumer protection agency oversight, bankruptcy legislation revision, and restrictions on executives' compensation and bonuses has led to more rather than less bank spending on federal lobbying. Lobbying expenditures for 2009 look likely to surpass previous years' totals.

Cohen goes on to report that as of October 2009, Bank of America had spent \$2.42 million towards federal lobbying; Citigroup \$4.886 million; Wells Fargo, \$2.06 million; Deutsche Bank, \$690,000, and J.P. Morgan Chase \$4.3 million. Industry lobbying is gigantic as well: National Association of Realtors, \$13.8 million; Mortgage Bankers Association, \$2.354 million; Mortgage Insurance Companies of America, \$1.81 million; etc. In contrast, the annual lobbying budgets for fair housing and community reinvestment groups hover around \$25,000 - \$750,000 (Cohen, 16-17). (See *The Political Economy of*

Fair Housing, Fair Credit, and Foundations in the Appendix for the full report.) In Oakland, the need for a very well funded communications and lobbying campaign around fair financial options and consumer protection was identified as an important need.

Federal policy: CFPB, CRA, Fannie and Freddie, and the Affirmative Obligation to Further Fair Housing

In terms of federal policy, several areas of concern were raised. First, the structure, function, and resources of the proposed Consumer Financial Protection Agency are unresolved. Critical aspects of the proposed agency intended to ensure the development and delivery of appropriate financial products have been weakened, including the removal of the CRA under the regulatory umbrella. According to the National Community Reinvestment Corporation leadership,

The financial reform legislation that would establish a Consumer Financial Protection Agency has been severely weakened by Congress, which has bowed to the financial industry's multi-million dollar lobbying campaign. The bill contains loopholes, exemptions and other weaknesses that undermine its ability to protect consumers or prevent another meltdown of the financial system.¹⁶

Strategists suggested that we take a different approach to regulation – to regulate financial *products* universally, not the channel/ institution. For example, the lion's share of subprime mortgages was issued by non-regulated, independent mortgage brokers. They underscored the need for better data from all "players," and suggested the penalization of servicers who do not comply with data requirements. There was a call to support real property databases held by county recorders (currently undermined by MERS), and a need for a policy and advocacy crisis "database" or "repository" that provides data, analysis, case studies, etc. to advocates and policymakers quickly.

Participants also advocated for updating (and perhaps "rebranding") the CRA. The CRA is currently oriented towards outdated models of banking and community development (see Wills, *Give Credit Where Credit Is Due: An Approach to Revamping CRA*) but has suffered "brand damage" and is in danger of being further attacked, ignored or ineffectively reformed. A new affirmative obligation to offer fair and sustainable credit must respond to the global, consolidated, and internet-based nature of modern banking. All financial institutions should be covered by this new obligation, and this obligation should be enforced by one regulator with a consumer protection mandate. Attendees suggested linking CRA incentives to "carrots," like getting government business, as well as to "sticks" like the threat of a merger denial. Attendees suggested rewarding CDFI and community development lending, and rewarding loan quality, not quantity. Another goal was to make fair housing an explicit obligation in any future housing- and neighborhood-focused recovery program or funding stream (like HAMP, NSP, etc.).

The few mission-driven organizations and networks that were offering lines of credit in underserved communities are themselves now threatened by the economic recession. Several ideas were raised with respect to affirmative credit. The first was to support the existing but fragile and/or small-scale mission-driven organizations that provide sustainable credit to marginalized groups, such as CDFIs. The second was to try to change the "rules of the game," such as systemic incentives to provide unequal service. For example, we could try to change mortgage broker incentives to parallel that of, say, insurance brokers, so that mortgage brokers only make commissions on performing loans. We could do better at linking real estate agents and homebuilders to good alternatives for their clients, as these people are often the main conduit to loan products. And we could try to change the perverse structure of fees. Currently, poorer people pay more, and more affluent people pay less, for good banking and financial services (similar to the 'ghetto tax' on food, auto insurance, etc.). Third, we could press for "affirmative action" for credit. For example, the government could supply lower-cost credit or supplemental funds

for first-generation homeowners. Fourth, we need to pursue alternative credit-scoring models, including encouraging utilities to report payment records to credit bureaus. CFED reports that this would disproportionately benefit lower-income Americans and members of minority groups, while at the same time increasing the predictability and accuracy of credit scoring (See CFED, *Extending Credit to Marginalized Communities* in the Appendix).

The future of Fannie and Freddie is at best on the back burner (and at worst, off the radar) of civil rights and social justice groups. The “left flank” workgroup on Fannie and Freddie is being led by CAP, which has to our knowledge not yet sought participation by any racial justice or fair housing groups. Kirwan dedicated considerable staff time to exploring the future of Fannie and Freddie in the wake of the subprime lending and foreclosure crisis, and the full memo by Jillian Olinger, *Fannie, Freddie and the Future of Fair Housing* is included in this report. Olinger found that the role of Fannie and Freddie in promoting sustainable homeownership was not well considered. This is a dangerous oversight, considering that as of the second quarter of 2009, Fannie, Freddie and FHA purchased or guaranteed 9 out of 10 new mortgages.

Olinger’s research on GSE performance highlights a critical lesson of the subprime lending and foreclosure crisis: getting families into sustainable homeownership is about much more than just “turning on the spigot” of credit. Access to credit is important, but increasingly important are the terms of that credit – both the financial terms of the credit instrument (interest rate adjustments, pre-payment fees, etc.) and the geography of the housing that people can access with their credit. And access to credit is not the only factor in homeownership – human capital and mobility matter too. Simply issuing more mortgages does not necessarily get people into neighborhoods of opportunity. Only careful targeting of both financial products and home ownership opportunities in healthy neighborhoods together can advance fair housing opportunity. We have commissioned a significant piece of original research by Henry Korman that assesses whether or not Fannie and Freddie-related housing investments have resulted in access to high-opportunity neighborhoods. A preliminary report is included in this submission, but we anticipate a more robust analysis to be completed in February with donated Kirwan staff time. In a related note, HUD does not have a clear, defined fair housing agenda. HUD has yet to release the new AFFH guidelines, including a comment on whether or not LIHTC falls under the AFFH mandate.

Lastly, there is not a clear consensus on what the fair housing approach should be to communities that have been totally destabilized by foreclosure (tear down, renovate, revert to renter status or co-op housing, etc.). Speculators have filled the gap (they can act much more quickly and are cash rich), and recent case studies are showing that low- and moderate-income neighborhoods with high concentrations of foreclosure are becoming up to 80% investor-owned communities (see forthcoming report from PolicyLink regarding neighborhood turnover in Minneapolis-St. Paul).

V. EVALUATIONS OF CURRENT FEDERAL RESPONSES TO THE CRISIS

Broadly speaking, the federal response has largely triaged the economic damage wrought by the crisis without yet addressing its underlying causes. Unfortunately, as Dymski notes, the debate among economists on the subprime lending crisis has “largely occurred with virtually no attention to racial discrimination and redlining, nor to predatory lending.” It is therefore unsurprising, albeit disappointing, that the debate around economic stabilization and recovery has the same blind spots. “In an ironic twist,” Dymski writes, “it is as if the subprime crisis itself...has disappeared while hiding in plain sight” (Dymski, 2). Policy responses have focused on salvaging the existing monopolistic banking landscape – Wall Street profits and bonuses have snapped back into place in record time while policies to protect consumers, extend credit to underserved populations, and stabilize neighborhoods are receding from view. The proposed Consumer Financial Protection Agency Act has become progressively watered down, the CRA is repeatedly erroneously blamed for contributing to the crisis, the restructuring of Fannie and Freddie is at best on a back burner, the Administration’s foreclosure relief plan has provided permanent loan modifications to only 4% of its participants, and Bank of America has provided permanent loan modifications to less than 100 of its homeowners.¹⁷

From our perspective, the federal lack of focus on a fundamental cause of the crisis – predatory or unsustainable credit “alternatives” and the racially and geographically demarcated lines along which they are distributed – is an analytic and strategic mistake. The “Financial Crisis Inquiry Commission,” a bi-partisan Congressional commission created to investigate the causes of the crisis, lists twenty-two areas of interest, *not one of which* is the history of racial segregation in credit markets, redlining, predatory lending targeted to communities of color, or the like.¹⁸ As Hernandez observes in his commissioned paper,

Because the mortgage meltdown remains rooted in long-standing patterns of housing discrimination that shaped segregated space, racially defined residential space should be seen as “ground zero” for the foreclosure crisis. Although current federal policy regarding the fallout remains proactive towards stabilizing the economic sector, we must not ignore the place where the crisis originated (Hernandez, *The Residual Impact of History: Connecting Residential Segregation, Mortgage Redlining, and the Housing Crisis*, 19).

Meanwhile, entire neighborhoods and even entire communities, like post-Big 3 Detroit and post-Katrina New Orleans, stand on the edge of a complete unraveling of homeownership and asset-building opportunity, of continuing economic marginalization and deterioration, and eroding fair housing opportunities. Extraordinary people are coming together in these communities to dream of a new future and a new way of working, saving, borrowing, and supporting collaborative and participatory neighborhood planning. However, they feel undercut by the lack of federal enforcement of existing fair housing and fair credit laws, the saturation and complexity of predatory financial tools, and the lack or limited scale of alternative financial institutions such as mission-driven credit unions. For example, in Seattle, attendees ranked legal enforcement of existing laws as a top priority for achieving fair credit. In Detroit, the workgroup seized on the need for alternative credit models mapped to community needs.

Federal policy makers must keep in mind that unequal and segregated credit emerged hand-in-hand with racially segregated housing markets. These tools of community and asset exclusion reinforced each other – people of color were denied credit and could not build and pass on intergenerational wealth -- so must they be addressed together. We still need anti-discrimination laws and policies, but they must be complemented with an affirmative duty to further fair credit and fair housing. As Hernandez noted in his review of foreclosure in low-income and non-white neighborhoods in Sacramento, “the fact that these neighborhoods...continually bear the brunt of disparate access to credit and housing suggests a

connection between the way we sort who lives in our neighborhoods and the market practices employed in these places” (Hernandez, 3).

In addition, the way in which “fair access” is understood matters with respect to policy design and implementation. Fair credit does not necessarily mean that everyone is offered the same product or service; nor does it mean a return to the way things were prior to the crisis. Fair *does* mean attention to why there are systemic differences in access to credit (Dymski, 9). It means that people, places and economies should be treated depending on their situation and history. We need to affirmatively recruit marginalized people and communities into healthy credit options, not only stabilize whites’ access to credit. This is John Powell’s “targeted universalism” in practice (see Appendix for *Post-Racialism or Targeted Universalism?*).

To address particular federal programs, Kirwan commissioned works that examine the Neighborhood Stabilization Program and Treasury’s HAMP program. Ira Goldstein of The Reinvestment Fund analyzed the potential for the Neighborhood Stabilization Programs to affirmatively further fair housing. In *Fair Housing and the Troubled Asset Relief Program: How TARP Funds Could (and Should) Be Used to Improve Our Neighborhoods*, Deidre Swesnik, Benjamin Clark, and Deborah Goldberg of the National Fair Housing Alliance argue that the federal government must better analyze its own programs for racially disparate impacts, articulate affirmatively furthering fair housing as a criteria for evaluation of those programs receiving federal funds, and allocate funds to community groups with experience connecting people to economic and residential opportunities.

Goldstein’s analysis of NSP allocation amounts in Atlanta, Baltimore, Cleveland, Newark, and Oakland shows that the potential properties to be touched in each city are quite small in relation to the landscape of foreclosure. [For example, an estimated 31 to 39 properties can be remediated in Oakland, CA (depending on the sale price of the property). At our convening in Oakland, the Oakland Community Land Trust shared data that indicated that 10,249 properties were in default in the City.] Given the small number of properties, Goldstein argued that areas should be strategically selected and that affirmatively furthering should be a critical factor of selection. That is, rather than remediating a few houses in a racially and socio-economically isolated neighborhood facing a crush of foreclosures, NSP funds should remediate properties in more racially and socio-economically integrated neighborhoods. Goldstein is further concerned that the limitations associated with NSP funds – the property must remain permanently affordable – could inadvertently penalize homeowners, preventing them from sharing in a future property value increase. His analysis suggests that although the intention of the policy to help hard-hit neighborhoods is well-meaning, it may not be an effective strategy at such a small scale, and in fact may continue to concentrate affordable housing in areas of isolation and disinvestment. (See *Aligning Affirmatively Furthering Fair Housing as a Significant Policy Initiative for the Federal Neighborhood Stabilization Programs* in the Appendix for the full analysis).

The National Fair Housing Alliance authors point out that TARP recipients include the companies offering loan modifications under the Treasury’s “Home Affordable Modification Program,” and that these programs fall under the FHA because they are related to housing and urban development. Therefore, The Treasury Department should be ensuring that these funds are increasing opportunity, not continuing segregation. [On January 13th, the *New York Times* reported that “the [Department of Justice] has also gained access to data the Treasury Department is collecting from banks about loan modifications for people seeking to avoid foreclosure. It intends to search for signs of any disparate impact on minorities.”¹⁹]

VI. WHAT SHOULD WE DO FROM HERE? PRINCIPLES FOR FAIR CREDIT AND FAIR HOUSING REFORM

This crisis has had global roots and global consequences, yet the impact of the crisis on the social justice landscape and how activists are responding to the crisis on a global scale, is little understood. Our observation is that unlike the international conversations on climate change, which attracted the activism of many U.S. and globally-based NGOs and interest groups, the conversation around the credit system was largely closed to advocates; unfortunately, advocates did not demand a place at the table. This must change.

We must have a national-level conversation around broad themes that have sometimes been submerged in the particulars of the subprime crisis and the policy response. These themes include, what is a fair economic system and how does a financial system best support it? This question has not been adequately considered since the deregulation period. As Dymski notes: “After all, since US banking-regulation legislation was first passed in 1980, the broader question of how to adapt a financial regulatory apparatus designed for a regulated banking system to the emerging deregulated environment has itself still not been answered” (Dymski, 21). As we’ve seen from this crisis, policy both set the market ‘free’ by preempting state regulation of subprime lending, interest rates, etc., and failed to protect consumers by failing to adequately regulate institutions and by failing to hold consumer protection as a priority. This combination allowed for the “algal bloom” of unsustainable subprime mortgages targeted to communities least able to bear their high cost and the ultimate foreclosure crisis.

Unfortunately this crisis isn’t new, nor is it over. People of color have been excluded from wealth-building opportunities via homeownership continuously throughout our history: First, from the outright denial of credit and residential racial discrimination of the 1930s to the 1960s; second, from the federally-sponsored urban renewal programs of the 1960s and 1970s that disrupted and scattered urban minority residents and businesses; and lastly from the subprime lending and foreclosure crisis of the 2000s that has cost communities of color up to a quarter of a trillion dollars in home equity. Loan modification disparities may be the “aftershock” of the subprime earthquake, further entrenching the disparate loss of home ownership opportunities for people of color. Policies must be re-structured to both encourage a healthy, sustainable credit and housing market, and to protect consumers. People should be able to make and implement meaningful choices regarding fair financial options and fair housing. For this to happen, they must have a range of options, and only an affirmative commitment to fair housing and fair credit will make these options materialize.

Because unequal and segregated credit emerged hand-in-hand with racially segregated housing markets, the provision of fair credit and fair housing opportunity must be pursued together. These tools of community and asset exclusion reinforced each other – people of color were denied credit and could not build and pass on intergenerational wealth -- they must be understood and unwound together. Most household wealth in the U.S. is (or was) in home equity. Without the ability to buy a home in a stable or appreciating neighborhood, people are barred from this means of wealth accumulation. And without sustainable credit, people will not be able to stay in their home and build up assets. We still need anti-discrimination laws and policies, but they must be complemented with an affirmative duty to further fair credit and fair housing. This affirmative duty should be measurable – goals should be set, data should be assessed, and policies that are not working should be corrected.

We offer the following principles to guide the affirmative promotion of fair credit and fair housing:

Fair housing must be defined to include access to fair financial options, affirmative community revitalization, and opportunity-based housing The fair housing community provides needed, aggressive anti-discrimination advocacy and litigation. However, we must complement this framework with affirmative connections to sustainable credit, educational opportunities, employment prospects, and healthy environments. Fair housing should be redefined to encompass integration into opportunity. *Fair financial options* must include consumer protection and ramped up local capacity to provide financial counseling and financial alternatives to predatory products. The approach to fair credit must take different racialized groups' experiences and needs into account, including immigrant and Native populations. Fair credit does not necessarily mean that everyone is offered the same product or service. Nor does fair mean a return to the way things were prior to the crisis. Fair *does* mean attention to why there are systemic differences in access to credit (Dymski, 9). It means that people, places and economies should be treated depending on their situation and history. We need to affirmatively recruit marginalized groups into healthy credit options, not only rescue whites' access to credit. This is "targeted universalism" in practice. *Affirmative community revitalization* means sustainable revitalization into higher-opportunity communities (not returning to the status-quo, as many of the targeted communities were already underinvested). It means better local capacity to meet the financial and development needs of families and neighborhoods, and better local capacity to monitor and respond to broader financial changes. It means improved civic engagement, vigilance against continuing redlining, and different post-foreclosure strategies for different geographies and market conditions. *Opportunity-based housing* means both carefully tailored, voluntary mobility programs and improved incentives for regional, fair-share housing.

Programs and policies must reach those disproportionately affected by the crisis Unfortunately, the federal response has largely triaged the economic damage wrought by the crisis without yet addressing its underlying causes or communicating the need to address widespread inequalities. Policy responses have focused on salvaging the existing monopolistic banking landscape – Wall Street profits and bonuses have snapped back into place in record time -- while policies to protect consumers, extend credit to underserved populations, and stabilize neighborhoods are receding from view. From our perspective, the federal lack of focus on predatory or unsustainable credit "alternatives," and the racially and geographically demarcated lines along which they are distributed, is an analytic and strategic mistake. The "Financial Crisis Inquiry Commission," a bi-partisan Congressional commission created to investigate the causes of the crisis, listed twenty-two areas of interest, *not one of which* was the history of racial segregation in credit markets, redlining, predatory lending targeted to communities of color, or the like.²⁰ Meanwhile, entire neighborhoods and even entire communities like post-Big 3 Detroit and post-Katrina New Orleans stand on the edge of a complete unraveling of homeownership and asset-building opportunity, of continuing economic marginalization and deterioration, and eroding fair housing opportunities.

Diverse stakeholders must be engaged and connected to advocate for real change Unfortunately, we lack the data we need; we are losing the messaging war; and we are not connecting advocates across domains to work together for change. The narrative of this crisis as a failure of individual responsibility and/or an overreaching government is only growing. Financial reform is erroneously framed as separate from (and even in competition with) political advocacy around jobs, education, and health care, rather as a related outcome of unfair access to opportunity. The crisis has complex roots and disengaging terminology ("collateral debt obligations," "cram-down," etc.), which can be difficult to connect to everyday, on-the-ground realities. We must be on the forefront of both messaging and advocacy networking.

The consequences of our unfair credit and housing markets and our lack of consumer protections have been devastating. Community stability, social mobility, family health, and individuals' ability to retire, invest, pay for medical bills, and send kids to college – they are all at risk. Nothing short of our collective future is at risk, and nothing short of a long-term, multi-faceted effort to affirmatively promote integration into opportunity for all of our people is required.

VII. IN HINDSIGHT: WHAT WE MISSED

In retrospect, the initiative, like all engaging research and advocacy projects, opened more doors than it closed, and we faced a few unexpected challenges. We had a very difficult time getting attention focused on the future of Fannie and Freddie, due to the political sensitivity and complexity of the topic coupled with competition from more immediate reforms (health care, the CFPA, the CRA, etc.) We realized late in the project that we needed to know more about credit scoring – both the nuts and bolts of the process and its increasing application in other domains, like employment screening. We did not explore the intersections of race, class and gender, and the implications for homeownership and wealth building, despite the fact that many subprime victims were elderly, single women of color and despite the known increase in single, female-headed households. We realized we knew little about an enormous segregated market -- the remittance market – and did not know enough about the challenges to full financial and economic inclusion for immigrants. And, as Peter Dreier pointed out, we were completely lacking in “opposition research” on the banking and financial industry, with the exception of Rick Cohen’s analysis of the lobbying budgets of the big banks and of the housing industry groups.

Lastly, we know that many federal entities like the Department of the Treasury, are “deracialized” – that is, concern for racial equity is only explicit in a few federal agencies (like HUD) and is absent in most others. However, we do not know how to introduce a racial equity lens to these agencies. As racial justice advocates, if we limit our federal advocacy efforts to HUD, we miss the most powerful and well-resourced agencies like Treasury, the Federal Reserve, Labor, etc. -- and the discussion of racial equity remains outside “real problems” like the economy, the environment, and foreign affairs, all of which are in fact affected by structural racialization.

ENDNOTES

¹ For the full list of what the commission is interested in, see <http://www.fcic.gov/about/>

² John A. Powell and Kathleen M. Graham, "Urban Fragmentation as a Barrier to Equal Opportunity." Chapter 7 of *Rights at Risk: Equality in an Age of Terrorism* by the Citizens' Commission On Civil Rights. Accessed at <http://www.cccr.org/Chapter7.pdf>.

³ For overviews of various challenges in housing policy, see Galster, G. (1998). "Residential segregation in American cities: A contrary review." *Population Research and Policy Review* 7(2): 93-112; Galster, G. and E. Godfrey (2005). "By Words and Deeds: Racial Steering by Real Estate Agents in the US in 2000." *Journal of the American Planning Association* 71(3): 251-268; Powell, J. (2003). "Opportunity-Based Housing." *Journal of Affordable Housing and Community Development Law* 12: 188; Roisman, F. W. (1997-1998). "Mandates Unsatisfied: The Low Income Housing Tax Credit Program and the Civil Rights Laws." *University of Miami Law Review* (52): 1011-1050; Turner, M. A., S. L. Ross, et al. (2002). *Discrimination In Metropolitan Housing Markets: National Results From Phase I HDS 2000*, U.S. Department of Housing and Urban Development; Yinger, J. (1998). "Housing Discrimination is Still Worth Worrying About." *Housing Policy Debate* 9(4): 893-927. For an overview of structural racism, see "A Report to the U.N. Committee for the Elimination of Racial Discrimination on the occasion of its review of the Periodic Report of the United States of America" (February 2008). <http://www2.ohchr.org/english/bodies/cerd/docs/ngos/usa/USHRN2.doc>.

⁴ Michael A. Stegman, Allison Freeman, and Jong-Gyu Paik, "The Portfolios and Wealth of Low-Income Homeowners and Renters: Findings from an Evaluation of Self-Help Ventures Fund's Community Advantage Program." Community Development Working Paper 2007-02, Federal Reserve Bank of San Francisco (2007), p. 29-30.

⁵ Ira Goldstein (The Reinvestment Fund) and Dan Urevick-Ackelsberg, "Subprime Lending, Mortgage Foreclosures and Race: How Far Have We Come and How Far Have We to Go?" Paper commissioned for the Kirwan Institute for the Study of Race and Ethnicity at The Ohio State University for its National Convening on Subprime Lending, Foreclosure and Race, October 2-3, 2008.

⁶ Ira Goldstein (The Reinvestment Fund) and Dan Urevick-Ackelsberg, "Subprime Lending, Mortgage Foreclosures and Race: How Far Have We Come and How Far Have We to Go?" Paper commissioned for the Kirwan Institute for the Study of Race and Ethnicity at The Ohio State University for its National Convening on Subprime Lending, Foreclosure and Race, October 2-3, 2008.

⁷ John Farris and Christopher A. Richardson, "The Geography of Subprime Mortgage Prepayment Penalty Patterns." *Housing Policy Debate* 15 (3): 2004. See also Paul S. Calem, Kevin Gillen, and Susan Wachter, "The Neighborhood Distribution of Subprime Mortgage Lending." *Journal of Real Estate Finance and Economics* 29:4, 393-410 (2004).

⁸ Debbie Gruenstein Bocian, Keith S. Ernst and Wei Li, "Unfair Lending: The Effect of Race and Ethnicity on the Price of Subprime Mortgages." Center for Responsible Lending, 2006. Accessed at <http://www.responsiblelending.org/issues/mortgage/research/page.jsp?itemID=29371010>

⁹ Glenn Canner and Neil Bhutta, Division of Research and Statistics of the Board of Governors of the Federal Reserve System, "Staff Analysis of the Relationship between CRA and the Subprime Crisis." Memo to Sandra Braunstein, Director, Consumer & Community Affairs Division, dated November 21, 2008.

¹⁰ This paragraph is taken from Christy Rogers, *Subprime Loans, Foreclosure, and the Credit Crisis: What Happened & Why?* (December 2008).

<http://4909e99d35cada63e7f757471b7243be73e53e14.gripelements.com/pdfs/events/foreclosureprimer.pdf>

¹¹ The Children's Defense Fund notes: "On average [over the last 30 years], the income of the top 20 percent of households was about 15 times greater than that of the households in the bottom 20 percent—the widest gap on record based on an analysis of U.S. Census Bureau figures." Children's Defense Fund, *The State of America's Children* 2005 (page 4). Back in 2002, economist Paul Krugman reported that 1 percent of families receive about 16% of total pretax income, while median family income has risen only about 0.5% a year – an increase mostly due to wives working longer hours. Krugman argued that this astonishing concentration of wealth at the top is why the U.S. has more poverty and lower life expectancy than any other major advanced nation. (Paul Krugman, Op-Ed column in *The New York Times*, "For Richer." 10/20/2002.) See also James Lardner and David A. Smith, editors, *Inequality Matters: The Growing Economic Divide in America and Its Poisonous Consequences*. New York: The Free Press (2005).

¹² Underbanked households have a checking or savings account but rely on alternative financial services (“AFS”) such as non-bank money orders and non-bank check cashing, pawn shops, payday loans, rent-to-own agreements (“RTOs”), and refund anticipation loans (“RALs”). The study reported that the two most frequently used AFS products are non-bank money orders and check-cashing. *FDIC National Survey of Unbanked and Underbanked Households*. December 2009. Executive Summary, page 5.

http://www.fdic.gov/householdsurvey/Executive_Summary.pdf

¹³ *FDIC National Survey of Unbanked and Underbanked Households*. December 2009. Executive Summary, page 4.

http://www.fdic.gov/householdsurvey/Executive_Summary.pdf

¹⁴ Minorities more likely to be unbanked include blacks (an estimated 21.7 percent of black households are unbanked), Hispanics (19.3 percent), and American Indian/Alaskans (15.6 percent). Racial groups less likely to be unbanked are Asians (3.5 percent) and whites (3.3 percent). Executive Summary, page 3.

http://www.fdic.gov/householdsurvey/Executive_Summary.pdf

¹⁵ Wyly, E. K., M. Moos, et al. (2008), "Subprime Mortgage Segmentation in the American Urban System." *Tijdschrift voor Economische en Sociale Geografie* 99(1): 3-23.

¹⁶ *Consumer protection agency weakened by Congress* (posted October 20, 2009). <http://www.fairlending.com>

¹⁷ Renae Merle, "Foreclosure relief program is stuck in first: JUST 4 PERCENT IN FINAL STAGE: Thousands now risk losing mortgage help," *The Washington Post*, December 11, 2009. <http://www.washingtonpost.com/wp-dyn/content/article/2009/12/10/AR2009121003834.html>

¹⁸ See <http://www.fcic.gov/about/>

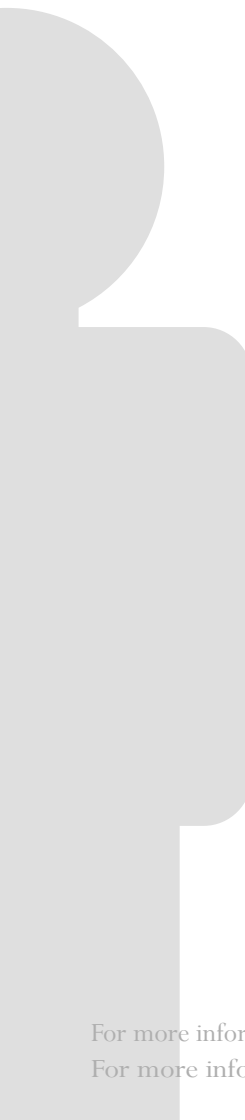
¹⁹ <http://www.nytimes.com/2010/01/14/us/14justice.html?sudsredirect=true>

²⁰ See <http://www.fcic.gov/about/>

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