

Do Presidents Control Bureaucracy? The Federal Housing Administration during the Truman–Eisenhower Era

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CREATED BY THE NATIONAL HOUSING ACT OF 1934, the Federal Housing Administration (FHA) was given the mission of ensuring that private lending institutions did not lose money in making home loans. The federal government would provide mortgage insurance through FHA to guarantee against losses. In carrying out its mission, though, FHA openly encouraged racial segregation in FHA-insured housing by virtually requiring restrictive covenants, which were used in many metropolitan areas to maintain the color line. FHA mortgage insurance assisted large numbers of middle- and working-class whites to purchase new suburban homes but did little to help African Americans who were seeking better housing.¹

FHA's mortgage insurance program constituted a policy of separate and unequal—separate because it segregated its beneficiaries based on race;

¹ Clarissa Rile Hayward, "The Difference States Make: Democracy, Identity, and the American City," *American Political Science Review* 97 (November 2003): 501–514; Arnold R. Hirsch, "Choosing Segregation: Federal Housing Policy Between *Shelley* and *Brown*," in John F. Bauman, Roger Biles, and Kristin M. Szylvian, eds., *From Tenements to the Taylor Homes: In Search of an Urban Housing Policy in Twentieth-Century America* (University Park, PA: State University Press, 2000), 206–225, at 208–214.

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unequal because it almost exclusively benefited whites. As a matter of formal policy, FHA modified its position on restrictive covenants two years following the Supreme Court's decisions in *Shelley v. Kraemer* and *Hurd v. Hodge*.² *Shelley* and *Hurd* declared that state and federal courts violated the Fourteenth Amendment's equal protection clause and the Civil Rights Act of 1866, respectively, by enforcing restrictive covenants. Nevertheless, FHA made only 1 to 2 percent of all insured loans available to blacks from the mid-1940s through the end of the Eisenhower administration.³ FHA continued to allow certain types of mortgage restrictions, based on race, throughout the 1950s, and the discriminatory effects of FHA's policies extended well into the 1960s.⁴

Given FHA's policy, we focus on presidential control and bureaucratic responsiveness during the Harry Truman–Dwight Eisenhower years. In so doing, we address two questions long explored by political scientists: To what extent do presidents control bureaucratic policy? And to what extent is bureaucracy responsive to presidential attempts at control? Although political scientists have addressed these questions for decades, they remain contested issues.

One body of literature concludes that presidents frequently exert limited control over the federal bureaucracy and its policy.⁵ Much of this work is qualitative in nature. Clinton Rossiter finds that presidents face a challenging task in convincing bureaucrats—including some of their own appointees—to convert presidential preferences into successful government programs. Moreover, countless other members of the bureaucracy may also be nonresponsive to presidential priorities.⁶ We are reminded of

² 334 U.S. 1 (1948) and 334 U.S. 24 (1948); see Hirsch, "Choosing Segregation," 212–213; Kenneth T. Jackson, *Crabgrass Frontier: The Suburbanization of the United States* (New York: Oxford University Press, 1985), 208.

³ Attachment to letter from Joseph R. Ray to Maxwell M. Rabb, 12 February 1954, RG 207 Department of Housing and Urban Development, Program Files, Race Relations Program, 1946–1958, Box 745, NA II.

⁴ Ruth P. Morgan, *The President and Civil Rights: Policy-Making by Executive Order* (New York: St. Martin's Press, 1970), 63–64; Wendell E. Pritchett, *Robert Clifton Weaver and the American City: The Life and Times of an Urban Reformer* (Chicago, IL: University of Chicago Press, 2008), 312; William Julius Wilson, "The Political and Economic Forces Shaping Concentrated Poverty," *Political Science Quarterly* 123 (Winter 2008–2009): 555–571, at 557.

⁵ See, for example, John Brehm and Scott Gates, *Working, Shirking, and Sabotage: Bureaucratic Response to a Democratic Public* (Ann Arbor: University of Michigan Press, 1997), chap. 1; Thomas E. Cronin, *The State of the Presidency* (Boston, MA: Little, Brown, 1975), 91–99; Hugh Hecl, *A Government of Strangers: Executive Politics in Washington* (Washington, DC: Brookings Institution, 1977), chap. 1; Emmet John Hughes, *The Living Presidency* (Baltimore, MD: Penguin, 1973), 185–190; Richard E. Neustadt, *Presidential Power and the Modern Presidents: The Politics of Leadership from Roosevelt to Reagan* (New York: Free Press, 1990), chap. 2; Clinton Rossiter, *The American Presidency* (New York: Harcourt, Brace, Jovanovich, 1956), 59–62.

⁶ Rossiter, *The American Presidency*, 59–62.

the statement that Richard Neustadt attributes to Truman: General Eisenhower, should he become president, would give orders to bureaucrats and, unlike in the military, nothing would happen.⁷ Thomas Cronin adds that bureaucracy acts as “one of the most visible checks on a president,” that controlling bureaucracy “is an enormous burden on the president,” and that bureaucrats cause implementation and evaluation problems that may significantly impede presidential programs.⁸ More recently, John Brehm and Scott Gates argue that supervision by principals is less effective in modifying the behavior of agents than the literature contends. Instead, they find that the preferences of individual bureaucrats are most influential. Bureaucrats are motivated by functional, solidarity, and pecuniary rewards. Although monitoring may affect their behavior, Brehm and Gates see most of the motivation to work being derived from these preferences. Thus, political principals, like the president, would not be expected to have a great deal of influence over bureaucrats.⁹

Another body of research, often quantitative in nature, finds that bureaucratic control is more likely to be exercised by presidents than was previously thought.¹⁰ David Lewis shows how presidents use appointments to politicize agencies to increase the likelihood that bureaucracy will respond to presidential priorities. Appointees may promote the president’s priorities in various ways: through rulemaking, budget requests, the allocation of agency resources, personnel decisions, and the interpretation of laws and regulations, to name a few. Lewis concludes that presidential appointments, in fact, have critical implications for bureaucratic performance.¹¹ William Howell and Lewis show that presidents control agencies that are created through executive action to a significantly greater extent than agencies established by legislation.¹² Thomas Weko additionally demonstrates how the White House Personnel Office has grown over time, allowing presidents greater control over executive branch appointments than in

⁷ Neustadt, *Presidential Power and the Modern Presidents*, 10.

⁸ Cronin, *The State of the Presidency*, 91–92.

⁹ Brehm and Gates, *Working, Shirking, and Sabotage*, chap. 10.

¹⁰ See, for example, David E. Lewis, *The Politics of Presidential Appointments: Political Control and Bureaucratic Performance* (Princeton, NJ: Princeton University Press, 2008); Thomas J. Weko, *The Politicizing Presidency: The White House Personnel Office, 1948–1994* (Lawrence, KS: University Press of Kansas, 1995); William G. Howell and David E. Lewis, “Agencies by Presidential Design,” *Journal of Politics* 64 (November 2002): 1095–1114; Terry M. Moe, “Control and Feedback in Economic Regulation: The Case of the NLRB,” *American Political Science Review* 79 (December 1985): 1094–1117; B. Dan Wood, “Principals, Bureaucrats, and Responsiveness in Clean Air Enforcements,” *American Political Science Review* 82 (March 1988): 213–234; B. Dan Wood and Richard W. Waterman, “The Dynamics of Political Control of the Bureaucracy,” *American Political Science Review* 85 (September 1991): 801–828.

¹¹ Lewis, *The Politics of Presidential Appointments*, chap. 8.

¹² Howell and Lewis, “Agencies by Presidential Design,” 1111–1113.

earlier years when appointments were highly influenced by cabinet officials, members of Congress, and party organizations.¹³ And in a study of seven bureaucracies during the late 1970s and most of the 1980s, B. Dan Wood and Richard Waterman discover that presidents may alter the course of regulatory policy. Indeed, they generally conclude that bureaucratic responsiveness may be pervasive during some periods in American politics, as was true during the Ronald Reagan years.¹⁴

Our approach is qualitative, relying on archival documents and primary and secondary sources.¹⁵ While quantitative studies provide excellent aggregate overviews of presidential control and bureaucratic responsiveness, qualitative research allows us to understand exactly how agency leaders respond to different political stimuli, including presidential and congressional preferences, Supreme Court decisions, and the policy positions of interest groups. Qualitative research can therefore provide rich details that permit us to refine generalizations derived from quantitative research, confirm quantitative findings, identify exceptions to general trends, and clarify why exceptions occur.

Three theoretical premises underlie much of the literature on presidential-bureaucratic relations. First, an attempt at presidential control is evident if a president clearly indicates that a certain policy or practice is or is not supported by the administration. Second, presidential control in fact occurs if an agency changes its policy or practice accordingly. And third, an agency will continue along that policy path until a president orders another policy change. Applied to our study, this would lead us to believe that Truman was seeking to exert control over FHA's restrictive covenant policy. We would further expect FHA to respond positively to the opposition to restrictive covenants expressed by the President, his Department of Justice (DOJ), and ultimately the Supreme Court, not shirk its responsibilities. Finally, we would anticipate that FHA would continue along the policy path set out during the Truman years unless President Eisenhower or the Supreme Court plainly articulated a different policy after 1952. Since it was unlikely that any president or Supreme Court majority would officially promote a policy of state-supported housing segregation in the 1950s, we would expect FHA to implement Truman's policy preference throughout the Eisenhower administration.

¹³ Weko, *The Politicizing Presidency*, 127–152.

¹⁴ Wood and Waterman, "The Dynamics of Political Control," 821.

¹⁵ Our archival documents come from the Harry S. Truman Presidential Library (HSTL), Independence, MO; the Dwight D. Eisenhower Presidential Library (DDEL), Abilene, KS; National Archives II (NA II), College Park, MD; the Manuscript Division of the Library of Congress (LC), Washington, DC; and *Papers of the NAACP* (Frederick, MD: University Publications of America, 1986).

To the contrary, we find that Truman was never able to influence FHA in a significant way to abandon its support for restrictive covenants, much less control its policy. Because “presidential control” is too blunt conceptually to apply to our research, we rely on the concept of “presidential influence.”¹⁶ We also find that FHA was unresponsive to the Truman administration and the Supreme Court throughout the Eisenhower years. This second finding requires that we distinguish “policy responsiveness” from “policy congruence.” Policy responsiveness implies that bureaucracy will change its policy based on presidential preferences and the exertion of presidential influence or control. Policy congruence implies that bureaucratic policy will not be changed because it is generally consistent with presidential preferences.¹⁷ Where policy congruence exists, neither presidential control nor influence is necessary. In light of this conceptual distinction, we conclude that FHA was not responsive to Truman’s opposition to restrictive covenants, in part because he failed to expound on his position and to exert sufficient pressure. However, FHA had no need to respond to Eisenhower because of general policy congruence between the President, his FHA appointees, and FHA’s past policy pertaining to race and housing.

The following pages first explore Truman’s statements and actions on civil rights and restrictive covenants, the role of his DOJ in the Supreme Court’s decisions in *Shelley* and *Hurd*, FHA’s restrictive covenant policy before and during the Truman years, and how the agency reacted to the Truman administration and the Supreme Court. Then turning to the Eisenhower years, we look at the President’s views on civil rights and housing segregation, Eisenhower’s housing bureaucracy, and FHA’s policies on residential segregation in the 1950s. In the final analysis, we argue that this case study is an exception to quantitative findings of presidential control. We show how a federal agency can flout presidential preferences and persist on an old policy trajectory until a new president, with views more congruent with an agency’s long-established policy, is elected. Although the conclusions from our case study cannot be generalized to all bureaucratic entities, it does suggest that presidents sometimes have a limited ability to dominate domestic politics in America.

¹⁶ On the concept of presidential influence, see George C. Edwards III and B. Dan Wood, “Who Influences Whom? The President, Congress, and the Media,” *American Political Science Review* 93 (June 1999): 327–344; Terry M. Moe, “The Politicized Presidency,” in John E. Chubb and Paul E. Peterson, eds., *The New Direction in American Politics* (Washington, DC: Brookings Institution, 1985), 235–271.

¹⁷ Policy congruence has been studied in various contexts. See, for example, Jeffrey R. Lax and Justin H. Phillips, “Gay Rights in the States: Public Opinion and Policy Responsiveness,” *American Political Science Review* 103 (August 2009): 367–386; Benjamin I. Page and Robert Y. Shapiro, “Effects of Public Opinion on Policy,” *American Political Science Review* 77 (March 1983): 175–190.

HARRY TRUMAN AND THE ORIGINS OF FAIR HOUSING POLICY

At the outset of the Truman period, no president had ever publicly stated that segregation or discrimination in the housing market should be illegal. But Truman is known for civil rights breakthroughs, and the Truman administration was seriously concerned about both human rights and housing as important areas of domestic policy. This concern grew in part out of the pressing housing needs of black veterans in the post-World War II period.¹⁸ These needs, in turn, stimulated the Truman administration to support decent housing for all Americans, as stipulated in the Housing Act of 1949, and to oppose the use of restrictive covenants, as seen in the administration's keen support for the Supreme Court's rulings in *Shelley* and *Hurd*. This suggests that the origins of federal fair housing policy are found not in the John Kennedy or Lyndon Johnson administrations but in Truman's years as President.

Harry Truman's statements and actions in the general field of human rights have been said to reflect efforts to exercise strong presidential leadership.¹⁹ As his very first action in civil rights, Truman issued Executive Order 9808, which created the President's Committee on Civil Rights. Taking its cue from Truman, the President's Committee produced an historic report entitled *To Secure These Rights*, emphasizing the need for equal opportunity in employment, education, housing, health services, and public services. Based on inputs from the Housing and Home Finance Agency (HHFA)—the overall planning agency responsible for federal housing programs from 1943 until 1965—and civil rights groups,²⁰ the President's Committee concluded that federal law must guarantee equal opportunity for all Americans to buy, rent, and lease housing. Business practices mainly explained housing segregation, the Committee argued, practices widely supported by community prejudice, especially against black Americans. Singled out for special criticism were restrictive covenants, the most effective means of achieving segregation at that time.²¹ Housing in

¹⁸ Housing and Home Finance Agency, *The Housing of Negro Veterans: Their Housing Plans and Living Arrangements in 32 Areas* (Washington, DC: Housing and Home Finance Agency, 1948), RG 196 Records of the Public Housing Administration, Miscellaneous Records of the Liaison Division, 1930–1950, Standard Plans Digest, National Housing Agency, Box 2, NA II.

¹⁹ William C. Berman, *The Politics of Civil Rights in the Truman Administration* (Columbus, OH: State University Press, 1970); Michael R. Gardner, *Harry S. Truman and Civil Rights: Moral Courage and Political Risks* (Carbondale, IL: Southern Illinois University Press, 2002).

²⁰ Attachment to letter from Raymond M. Foley to Robert K. Carr, 28 July 1947, and attachment to letter from Leslie S. Perry to Nancy Wechsler, 8 May 1947, RG 220 Records of the President's Committee on Civil Rights, Box 3, HSTL.

²¹ Steven F. Lawson, *To Secure These Rights: The Report of President Harry S. Truman's Committee on Civil Rights* (Boston, MA: Bedford/St. Martin's Press, 2004), 102. See also Michael Jones-Correa, "The Origins and Diffusion of Racial Restrictive Covenants," *Political Science Quarterly* 115 (Winter 2000–2001): 541–568.

cities such as Chicago, Cleveland, Los Angeles, and Washington, DC, frequently contained restrictive covenants, the Committee said, forcing blacks, in particular, to live in overcrowded ghettos. Thus, the Committee emphatically recommended that states pass laws making restrictive covenants illegal and that DOJ lead an attack against restrictive covenants in the federal courts.²²

By establishing the President's Committee on Civil Rights and encouraging it to address the nation's civil rights problems aggressively, Harry Truman set into motion what would later be known as the civil rights revolution. In February 1948, Truman again exhibited leadership when he made other bold assertions and recommendations in the first Special Message to Congress on Civil Rights delivered by an American president.²³ First, he reiterated that equal opportunity to obtain a decent home was a basic civil right. Second, he suggested that Congress create a permanent Commission on Civil Rights that would report to the president, a Joint Committee on Civil Rights on Capitol Hill, and a Civil Rights Division at DOJ. Third, calling for equal protection for all Americans, he insisted that each branch of the federal government was ultimately responsible for protecting the Constitution and that Congress must adopt more comprehensive civil rights legislation. Though the new legislation would not address housing segregation, it would prohibit lynching, the poll tax, and segregation in the military. It would also create a permanent Fair Employment Practices Commission, having the power to combat job discrimination by employers and labor unions.

Truman's proposals drew irate responses from a host of Southern politicians. As Edward Carmines and James Stimson note, Truman's views often shocked Southern Democrats, and "the war for the racial soul of the [Democratic] party began."²⁴ A number of Southern delegates to the 1948 Democratic convention bolted the meeting when faced with Truman's civil rights demands, but housing segregation was not emphasized. That would change as the issue of restrictive covenants reached the Supreme Court's calendar.

SHELLEY, HURD, AND THE TRUMAN ADMINISTRATION

Shelley v. Kraemer and *Hurd v. Hodge* presented Harry Truman and his administration with a unique opportunity to come down squarely against

²² Lawson, *To Secure These Rights*, 181–182.

²³ *Public Papers of the Presidents: Harry S. Truman* (Washington, DC: Government Printing Office, 1964), 121–126.

²⁴ Edward G. Carmines and James A. Stimson, *Issue Evolution: Race and the Transformation of American Politics* (Princeton, NJ: Princeton University Press, 1989), 34.

state-supported housing segregation. *Shelley* raised the question of whether a state court could enforce private restrictive covenants that discriminated based on race or color. The Court unanimously answered that state courts could not enforce such restrictive covenants. Chief Justice Vinson, a Truman appointee and the President's loyal friend, noted that the Fourteenth Amendment was intended to protect a person's right to purchase, own, enjoy, and dispose of property. Moreover, the Civil Rights Act of 1866 expressly guaranteed that "All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property."²⁵ Both the Fourteenth Amendment and the 1866 Civil Rights Act therefore protected the basic property rights of African Americans.

Had these restrictions been required by law, they would have been illegal. But Chief Justice Fred Vinson stressed that state action was not present in *Shelley* and that the Fourteenth Amendment does not prohibit private discrimination, no matter how unjust. Hence, private restrictive covenants, standing alone, did not violate the Fourteenth Amendment. Vinson nevertheless maintained that action by state courts does constitute state action and that *Shelley* could have occupied his property had it not been for the decisions of the state courts. Judicial enforcement of restrictive covenants therefore violated the equal protection rights of the petitioners, and the protection of property rights is a fundamental objective of the Fourteenth Amendment. Consistent with *Shelley*, *Hurd* presented the question of whether a federal court could enforce racially restrictive covenants in light of the Civil Rights Act of 1866. With Vinson again writing for a majority, the Court unanimously ruled that restrictive covenants could not be enforced by federal courts.

Although Truman helped to facilitate the Supreme Court's rulings in *Shelley* and *Hurd*, his exact role requires clarification. Over four years after these decisions were handed down, and two years prior to *Brown v. Board of Education*,²⁶ Truman indicated that he had taken the initiative within the administration on the restrictive covenant issue: "At my request, the Solicitor General ... went before the Supreme Court and argued against the vicious, restrictive covenants that had prevented houses in many places from being sold to Negroes and to Jews." He went on to say that it "was a great day in the history of civil rights when we won that case."²⁷ According

²⁵ Quoted in *Shelley v. Kraemer*, 334 U.S. 1 at 11 (1948).

²⁶ 347 U.S. 483 (1954).

²⁷ *Public Papers of the Presidents: Harry S. Truman* (Washington, DC: Government Printing Office, 1966), 799.

to Truman, then, on his orders, Solicitor General Philip B. Perlman filed amicus curiae briefs in *Shelley* and *Hurd*.

Yet other evidence suggests that Truman may have exaggerated his role in expediting the decisions in *Shelley* and *Hurd*. In his only public statement on restrictive covenants, Truman said that Perlman filed amicus briefs in these cases at the President's "request," but word choice is important here. Steven Lawson concludes that Truman "approved" of the amicus briefs in these cases, while Alonzo Hamby says that Truman "authorized" the briefs.²⁸ By contrast, based on an interview with Perlman, Clement Vose finds that the actual decision to file these briefs was made by Attorney General Tom Clark and Perlman, not Truman.²⁹

The best source is Perlman. In a 1954 oral history interview, Perlman noted that DOJ knew the essence of Truman's position, if not the details. "I think I chatted with him on occasions about it. He didn't interfere or give instructions, but he was very much pleased." Clark deserved special credit "because he made the decision in the racial restrictive covenants case and I think he discussed it with the President." Perlman added: "We won it, and everybody was so pleased with it. But whenever it was decided to go into another one, we didn't have to see the President—we knew where the administration, where Truman, was on it."³⁰ This suggests that Clark and Perlman understood Truman's basic views on civil rights and restrictive covenants. It seems unlikely that Truman actually ordered the filing of amicus briefs in *Shelley* and *Hurd*. Instead, Clark and Perlman most likely decided to file briefs in these cases, with Clark exercising more influence due to his superior position at DOJ. While Truman needed to emphasize repeatedly his opposition to restrictive covenants in order to change FHA policy, his influence was evident in Clark and Perlman's actions even if he did not personally set the briefs in motion.

The brief in *Shelley*, containing the names of Clark and Perlman, makes it obvious that the Truman administration adamantly opposed the use of racially restrictive covenants. The brief asserted that restrictive covenants were contrary to the spirit of the Constitution and had become "a source of serious embarrassment" to federal agencies "in the performance of many essential duties."³¹ Clark and Perlman included excerpts of letters

²⁸ Lawson, *To Secure These Rights*, 34; Alonzo L. Hamby, *Man of the People: A Life of Harry S. Truman* (New York: Oxford University Press, 1995), 434.

²⁹ Clement E. Vose, *Caucasians Only: The Supreme Court, the NAACP, and the Restrictive Covenant Cases* (Berkeley: University of California Press, 1959), 170.

³⁰ Perlman Oral History, 16 December 1954, Post-Presidential Files, Memoirs Files, Box 642, HSTL, 28–29.

³¹ Brief for the United States as Amicus Curiae, *Shelley v. Kraemer*, in Philip B. Kurland and Gerhard Casper, eds., *Landmark Briefs and Arguments of the Supreme Court of the United States: Constitutional Law* (Arlington, VA: University Publications of America, 1975), 4.

from various federal officials assessing the negative impacts of restrictive covenants. For example, Raymond M. Foley, Truman's HHFA administrator, admitted that these land restrictions appeared "to place the stamp of governmental approval upon separate residential patterns and to render it most difficult for the agency to administer public funds in such a manner as to assure equitable participation by minority racial groups."³² The brief provided a legal and sociological assessment of restrictive covenants as well. Poor housing conditions, the confinement of minorities to decaying neighborhoods, and the increasing use of restrictive covenants were all deplored. Additionally, the legal argument presented an extremely detailed analysis of earlier restrictive covenant cases, along with an explanation of why judicial enforcement constituted state action in violation of the Fourteenth Amendment. Finally, the brief contained progressive assertions concerning human rights in America.

THE FHA AND RESTRICTIVE COVENANTS

The Truman administration also responded to the issue of restrictive covenants by revising the Federal Housing Administration's *Underwriting Manual*. Here, though, one gets a different impression of the administration as well as a classic glimpse into bureaucratic inertia.³³ The basic function of the FHA is not to build housing or to lend federal money to purchase homes. Rather, FHA mortgage insurance guarantees lenders that mortgages meeting FHA standards will be paid off. Revolutionizing the way that Americans borrowed money to purchase homes, FHA mortgage guarantee programs helped millions of citizens to become new homeowners by virtually removing the risk to lenders to give mortgages. The impact of the FHA on the American housing market, and by inference the economy, has therefore been enormous over time.³⁴

FHA's discriminatory policies were well known, however. According to Gunnar Myrdal's famous study, it appeared likely that FHA's policies significantly accelerated the use of restrictive covenants, thereby segregating countless blacks in the nation's urban ghettos.³⁵ Fifteen years later, the U.S. Commission on Civil Rights found that less than 2 percent of all

³² Ibid., 5.

³³ Charles Abrams, *Forbidden Neighbors: A Study of Prejudice in Housing* (New York: Harper & Row, 1955), 229–237; David M.P. Freund, *Colored Property: State Policy and White Racial Politics in Suburban America* (Chicago, IL: University of Chicago Press, 2007), 198–213.

³⁴ See U.S. Commission on Civil Rights, *Report of the United States Commission on Civil Rights* (Washington, DC: Government Printing Office, 1959), 462.

³⁵ Gunnar Myrdal, *An American Dilemma: The Negro Problem and Modern Democracy* (New York: Harper & Brothers, 1944), 625.

new FHA-insured housing between 1946 and 1959 was available to minorities. Moreover, of the FHA-insured housing made available to minorities, most was located in segregated black developments in the South. The Commission concluded that only about 200,000 housing units for African Americans were constructed with FHA funds in the first 25 years of the agency's existence. This extremely low rate of nonwhite participation was primarily caused by racial discrimination by FHA, lending institutions, builders, and realtors, the Commission argued.³⁶

The criteria used by FHA underwriters for mortgage insurance during this period were outlined in the FHA *Underwriting Manual*. In 1938, the *Manual* candidly stated that "If a neighborhood is to retain stability, it is necessary that properties shall continue to be occupied by the same social and racial classes."³⁷ By 1946, this language had been deleted, yet the *Manual* continued to indicate that FHA valuers should not approve insurance for home loans in neighborhoods with "inharmonious racial groups."³⁸

The assumption of the FHA policy, reflected in the agency's *Underwriting Manual*, was that racially mixed neighborhoods were unstable and thus unacceptable economic risks. As a result, the agency explicitly endorsed for many years the use of racially restrictive covenants in deeds for properties receiving FHA mortgage guarantees, directly fostering the residential color line. Indeed, at one time, the *Manual* included a model restrictive covenant that could be used in real estate contracts.³⁹ Civil rights groups complained that FHA's policy caused racially segregated housing and must be changed.⁴⁰ The agency, however, denied that it encouraged racial segregation.⁴¹ Instead, FHA claimed that its policies simply reflected market conditions—that most whites wanted to be segregated from minorities in the housing market.⁴²

FHA adhered to this policy for over a decade. Then, in January 1947, some 16 months before the Supreme Court announced *Shelley and Hurd*,

³⁶ U.S. Commission on Civil Rights, *Report of the United States Commission on Civil Rights*, 464.

³⁷ Quoted in Morgan, *The President and Civil Rights*, 62.

³⁸ Quoted in Robert C. Weaver, *The Negro Ghetto* (New York: Harcourt, Brace, 1948), 72.

³⁹ Morgan, *The President and Civil Rights*, 62.

⁴⁰ See, for example, letter from Robert C. Weaver to Raymond M. Foley, 2 June 1947, RG 207 General Records of the Department of Housing and Urban Development, National Housing Agency, Subject Files, 1947–1960, Racial Relations, Box 6, NA II; Arnold M. Hirsch, "Containment' on the Home Front: Race and Federal Housing Policy from the New Deal to the Cold War," *Journal of Urban History* 26 (January 2000): 158–189, at 162–164.

⁴¹ "Race Restrictive Covenants Do Not Bar FHA Loans," 29 May 1946, *Papers of the NAACP*, Part 5, Reel 20, Frame 825.

⁴² Freund, *Colored Property*, 198–213; Hirsch, "Containment," 163.

it modified the policy in an apparent effort to stave off further criticism from civil rights proponents. The 1947 changes in the FHA *Underwriting Manual* removed specific references to race but nevertheless included obscure language pertaining to the composition of neighborhoods. It read: "If a mixture of user groups is found to exist it must be determined whether the mixture will render the neighborhood less desirable to present and prospective occupants." It continued: "Protective covenants are essential to the sound development of proposed residential areas since they regulate the use of the land and provide a basis for the development of harmonious, attractive neighborhoods suitable and desirable to the user groups forming the potential market."⁴³ The reference to protective covenants showed that FHA still endorsed the use of restrictive covenants in deeds to FHA-insured property. If this was not clear, the FHA Commissioner supplemented agency policy with instructions to field offices stating that alterations in the *Manual* did not relieve FHA valuers from the duty of weighing any local housing factors that would affect property values.⁴⁴ Given the FHA's long-standing policy, the message could not be misinterpreted.

Although racial considerations were inherent in this new FHA policy, federal housing officials declared that they were not. In July 1947, Raymond Foley wrote that FHA had "never held interracial characteristics in a project or neighborhood to be a basis of eligibility or ineligibility for mortgage insurance, per se."⁴⁵ Nevertheless, Assistant FHA Commissioner W.J. Lockwood wrote in November 1948 that FHA never had a racially integrated housing project and predicted that integrated projects would probably become all black or all white fairly quickly.⁴⁶

Bureaucracy does not always follow a president's lead.⁴⁷ Indeed, leaders in the federal housing bureaucracy during the Truman years, including Raymond Foley at HHFA and Commissioner Franklin D. Richards at FHA, were conservatives within Truman's administration. It is not surprising, then, that a different drama was unfolding at HHFA and FHA.

On 18 May 1948, 15 days after the Supreme Court's decisions in *Shelley* and *Hurd* were announced, Foley dashed off a memo to Richards and two

⁴³ Quoted in Charles Abrams, "The Segregation Threat in Housing," in Nathan Straus, ed., *Two-Thirds of a Nation: A Housing Program* (New York: Alfred A. Knopf, 1951), 220–221.

⁴⁴ Morgan, *The President and Civil Rights*, 62.

⁴⁵ Letter from Foley to Raymond Voigt, 3 July 1947, *Papers of the NAACP*, Part 5, Reel 5, Frame 568.

⁴⁶ Letter from W.J. Lockwood to James Cassels, 19 November 1948, *Papers of the NAACP*, Part 5, Reel 5, Frame 684.

⁴⁷ Daniel P. Carpenter, *The Forging of Bureaucratic Autonomy: Reputations, Networks, and Policy Innovation in Executive Agencies, 1862–1928* (Princeton, NJ: Princeton University Press, 2001); Joel D. Aberbach and Bert A. Rockman, "Clashing Beliefs within the Executive Branch: The Nixon Bureaucracy," *American Political Science Review* 70 (June 1976): 456–468.

other housing officials. He asked whether the Court's rulings "in any way affect the programs of this Agency, particularly from the point of view of imposing a new restriction on the operation of these programs."⁴⁸ Richards unequivocally responded that *Shelley* and *Hurd* would have no effect on FHA programs.⁴⁹ It is difficult to understand how Richards could have made this assertion in light of the Supreme Court's decisions, and his views were directly contradicted by Frank S. Horne, a liberal black official at HHFA and a thorn in the side of the agency's conservatives. In a letter to Foley, Horne predicted that organizations that had fought restrictive covenants in the courts would test all governmental policies and procedures that seemed inconsistent with *Shelley* and *Hurd*,⁵⁰ but Richards stuck to his interpretation of the Court's rulings.

Confusion over the precise meaning of FHA's policy persisted, with FHA shirking the policy direction provided by the White House, DOJ, and the Supreme Court until Truman and other administration officials intervened. Solicitor General Perlman revealed FHA's new policy in a speech to the New York State Committee on Discrimination in Housing during the early afternoon of 2 December 1949. Speaking for Truman, Foley, Richards, and Attorney General J. Howard McGrath (who replaced Clark after his elevation to the Supreme Court), Perlman announced that FHA would no longer provide mortgage insurance for projects that used restrictive covenants to discriminate on grounds of race, creed, or color. Given the legal and public policy issues involved, Perlman noted that "the decision of FHA Commissioner Richards was reached after consultations held at the White House and the Department of Justice with the Administrator of the Housing and Home Finance Agency."⁵¹ This change in FHA policy, simultaneously made in Veterans Administration (VA) policy, was dictated by *Shelley* and *Hurd*, because "governmental support for [restrictive] covenants is contrary to the public policy of the United States and cannot be enforced by State or Federal Courts."⁵²

In this important speech, Perlman indicated that Truman's leadership helped to explain the administration's new policy at FHA and that it had the President's stamp of approval. "These amendments of the FHA rules

⁴⁸ Memo from Foley to William K. Divers, Franklin D. Richards, and John T. Egan, 18 May 1948, *Papers of the NAACP*, Part 5, Reel 5, Frame 643.

⁴⁹ Memo from Richards to Foley, 21 May 1948, *Papers of the NAACP*, Part 5, Reel 5, Frame 645.

⁵⁰ Letter from Horne to Foley, n.d., *Papers of the NAACP*, Part 5, Reel 5, Frame 646.

⁵¹ "Statement of Solicitor General Philip B. Perlman at Luncheon Session of State-wide Conference of New York State Committee on Discrimination in Housing, 2 December 1949," RG 207 Department of Housing and Urban Development, Race Relations Program Files 1946-1958, Box 746, NA II, 1.

⁵² *Ibid.*, 2.

and regulations give effect to the public policy expressed on so many occasions by the President." The President, Perlman said, "has been working on this matter for some time, and is most happy over the result of his efforts."⁵³ Confirmation from Key West, Florida, where Truman often vacationed, indicated that the President had personally approved the policy announced by Perlman.⁵⁴

Based on this White House intervention, FHA and the VA formally announced changes in their restrictive covenant policies on 15 December 1949, to take effect on 15 February 1950.⁵⁵ These proposed changes reiterated that, in the future, neither agency would insure mortgages on homes containing restrictive covenants in their deeds. Yet the FHA circumvented its own regulations in subsequent years by insuring the mortgages of builders who never actually recorded their restrictive covenants, as with the Levittown development on Long Island.⁵⁶

Seemingly, presidential preferences can be trumped by bureaucratic autonomy and intransigence to the point where an agency can successfully thwart the exercise of presidential influence. Truman nevertheless continued to pressure FHA, subtly, seven months before the end of his administration, by indicating that DOJ should review FHA's policy on restrictive covenants, his new FHA administrator should expand the amount of housing made available to African Americans, and communications between FHA and HHFA should be improved to promote equal opportunity in defense housing and slum clearance programs.⁵⁷

DWIGHT EISENHOWER, CIVIL RIGHTS, AND RESIDENTIAL SEGREGATION

Dwight Eisenhower's policies on civil rights and housing segregation cannot be properly understood without taking into account his views on the larger constitutional order and on presidential responsibility. In contrast to Truman, Eisenhower was committed to states' rights and a limited central government.⁵⁸ This tendency is perhaps best illustrated in the area

⁵³ Ibid., 3.

⁵⁴ Quoted in Lewis Wood, "Truman Puts Ban on All Housing Aid Where Bias Exists," *The New York Times*, 3 December 1949.

⁵⁵ B.T. McGraw and George B. Nesbitt, "Aftermath of Shelley Versus Kraemer on Residential Restriction by Race," *Land Economics* 29 (August 1953): 280–287, at 283.

⁵⁶ Morgan, *The President and Civil Rights*, 62.

⁵⁷ Donald R. McCoy and Richard T. Ruetten, *Quest and Response: Minority Rights and the Truman Administration* (Lawrence, KS: University Press of Kansas, 1973), 215–216.

⁵⁸ David A. Nichols, *A Matter of Justice: Eisenhower and the Beginning of the Civil Rights Revolution* (New York: Simon & Schuster, 2007), 153–155, 176; James L. Sundquist, *Politics and Policy: The Eisenhower, Kennedy, and Johnson Years* (Washington, DC: Brookings Institution, 1968), 224.

of civil rights during the desegregation of Little Rock Central High School in 1957. When negotiations failed in Little Rock, Eisenhower, the World War II hero, sent federal troops and nationalized the Arkansas National Guard to enforce a federal court order. On television, he stressed that a federal court could not be defied by local extremists.⁵⁹ He took a stand, but it was linked to his conception of the proper distribution of authority in the federal system and a president's responsibility in times of domestic crisis. Unless federal authority clearly extended to a situation, presidential restraint was a wise course of action.

Eisenhower's notes during the Little Rock desegregation crisis clarify his conception of presidential responsibility in the American constitutional system.⁶⁰ Eisenhower viewed the Little Rock situation not as a serious civil rights problem requiring strong presidential action but as the constitutional problem of how a president should respond under those trying circumstances. He believed the president's role in Little Rock was not to enforce desegregation but to ensure that federal court orders—and thus the Constitution—were enforced. According to Eisenhower's notes, Governor Orval Faubus “ordered out troops, armed & equipped and partially maintained by Fed. Government with instruction to prevent execution of a plan proposed by School Board, approved by Fed Judge.” Faubus was using the Arkansas National Guard, which received federal funding, to directly disobey federal law as interpreted by a federal court. Eisenhower said he felt he had no option as president; he must actively defend the federal judiciary when confronted by local violence.

Given Eisenhower's restraint in civil rights, it is not surprising that his public statements on residential segregation were few and far between.⁶¹ His most direct and assertive comment came in January 1954 when he admitted that minorities had fewer housing opportunities than other Americans, irrespective of their economic standing or income. HHFA had improved the production and financing of housing for minorities, the President claimed, but the policies of federal housing agencies had to be substantially strengthened “to assure equal opportunity for all of our citizens to acquire, within their means, good and well-located homes.” Regardless of race, he pledged to provide housing to persons displaced by urban renewal, to avoid dislocation caused by slum clearance, and to support

⁵⁹ *Public Papers of the Presidents: Dwight D. Eisenhower* (Washington, DC: Government Printing Office, 1957), 689.

⁶⁰ Dwight D. Eisenhower, *Papers as President, 1953–61*, Ann Whitman File, Administration Series, Box 23, DDEL.

⁶¹ *Public Papers of the Presidents: Dwight D. Eisenhower* (Washington, DC: Government Printing Office, 1960), 21, 162, 198.

mortgage financing for “new housing for such families on good, well-located sites.”⁶²

This statement was the exception, though, for Eisenhower addressed housing segregation rarely, indirectly, without a sense of conviction, and essentially was not interested in the problem. Aside from this single statement, Eisenhower’s views appear to be generally congruent with FHA policy on race. His housing bureaucracy, top-heavy with conservatives, therefore found ways that FHA could continue to permit racial segregation in government-assisted housing programs.

EISENHOWER’S HOUSING BUREAUCRACY

Even if presidents make few public statements on an issue, they still may shape bureaucratic policy through appointments.⁶³ In fact, Eisenhower’s greatest influence in housing segregation policy came through his appointment of HHFA and FHA officials. Most of these men had strong business orientations, and close ties existed between FHA officials and builders, bankers, and realtors.⁶⁴ The Eisenhower White House was content with housing policy pertaining to race, so FHA continued to permit segregation, largely ignoring the policy direction begun during the Truman presidency.

The central figure in the Eisenhower housing bureaucracy was Albert Cole, a critical appointment by the President. Cole was a conservative former congressman from Kansas with an extensive record of fighting federal housing programs on Capitol Hill.⁶⁵ When he was nominated as HHFA administrator, dozens of letters poured into the White House claiming that Cole was anti-labor, an enemy of public housing, and that he would not oppose racial segregation.⁶⁶

Sure enough, Cole exhibited limited interest in the housing problems of minorities during his career at HHFA, especially segregation. Throughout his six-plus years heading the agency, he denied that the federal government was to blame for encouraging segregation in the past or responsible

⁶² Ibid., 198.

⁶³ See, for example, Marissa Martino Golden, *What Motivates Bureaucrats? Politics and Administration During the Reagan Years* (New York: Columbia University Press, 2000); Lewis, *The Politics of Presidential Appointments*; Wood and Waterman, “The Dynamics of Political Control.”

⁶⁴ David M.P. Freund, “Marketing the Free Market: State Intervention and the Politics of Prosperity in Metropolitan America,” in Kevin M. Kruse and Thomas J. Sugrue, eds., *The New Suburban History* (Chicago, IL: University of Chicago Press, 2006), 19; Douglas S. Massey and Nancy A. Denton *American Apartheid: Segregation and the Making of the Underclass* (Cambridge, MA: Harvard University Press, 1993), 190.

⁶⁵ Christopher Bonastia, *Knocking on the Door: The Federal Government’s Attempt to Desegregate the Suburbs* (Princeton, NJ: Princeton University Press, 2006), 70.

⁶⁶ Central Files, General File, Box 398, DDEL.

for eliminating it in the future. Cole insisted that the federal government should not pressure states to prohibit housing segregation, and he opposed open occupancy as a form of “extremism.”⁶⁷ As an advocate of a free enterprise economy, he felt the appropriate federal role was to stimulate the housing market but never to “stifle the proper exercise of private or local responsibility.”⁶⁸ Cole opposed the development and growth of public housing, stating on various occasions that it was a form of socialized housing.⁶⁹ In addition, he urged Congress to move cautiously in prohibiting racial segregation in public housing and segregation promoted by recipients of FHA mortgage insurance.⁷⁰ On some occasions, especially following Eisenhower’s January 1954 speech, Cole voiced compassion for the plight of racial minorities in securing housing and said he opposed housing discrimination and segregation.⁷¹ Yet his progressive statements slowed significantly after 1954.

Perhaps most important, Cole firmly believed that racial segregation in publicly assisted housing was primarily a local—not a federal—responsibility. Thus, in May 1956, he sent a revealing letter to Senator Prescott Bush (R-CT) articulating the achievements of the federal government’s housing programs and his basic philosophy regarding the role of the HHFA in American federalism. Cole strongly felt that racial segregation and discrimination should be addressed at the local level because they were “peculiarly local issues.”⁷² This letter was later condemned at the 1956 annual conference of the NAACP.⁷³

Norman Mason replaced Cole as the HHFA administrator in 1959, after serving as FHA Commissioner for nearly five years, and clearly paid

⁶⁷ Memo from Cole to Sherman Adams, 9 November 1954, Central Files, Official File, Box 614, DDEL.

⁶⁸ Letter from Cole to Edna A. Merson, 12 December 1958, RG 207 General Records of the Department of Housing and Urban Development, Housing and Home Finance Agency (HHFA), Subject Files, 1947–1960, Box 166, NA II.

⁶⁹ Letter from Walter Reuther to Eisenhower, 6 March 1953, Central Files, Official File, Box 201, DDEL; National Housing Conference, membership newsletter, 6 February 1953, Central Files, Alphabetical Files, Box 1469, DDEL.

⁷⁰ Associated Press, 14 July 1955, RG 207 Department of Housing and Urban Development, Program Files, Race Relations Program, 1946–1958, Box 748, NA II.

⁷¹ Letter from Cole to Eisenhower, 15 January 1954; letter from Cole to Homer Ferguson, 11 March 1954, HHFA Press Release, 2 June 1955, and letter from Cole to Craig Hosmer, 16 November 1955, RG 207 Department of Housing and Urban Development, Program Files, Race Relations Program 1946–1958, Box 748, NA II; memo from Flora Y. Hatcher to National Public Interest Organizations Actively Interested in Federal Housing Programs, 22 June 1954, RG 31 Records of the Federal Housing Administration, Commissioner’s Correspondence and Subject File, 1938–58, Box 4, NA II.

⁷² Letter from Cole to Bush, 3 May 1956, Records of the Urban League, Series 3, Box 13, Manuscript Division, LC.

⁷³ Housing Resolution, 47th Annual Conference, NAACP, 26 June–1 July 1956, RG 207 Department of Housing and Urban Development, Program Files, Race Relations Program, 1946–1958, Box 745, NA II.

more attention to residential segregation than had Cole.⁷⁴ As examples, Mason told the National Association of Home Builders in 1954 that FHA favored building more open-occupancy housing projects; in 1956, he reminded FHA field officials that they were responsible for the participation of all racial groups in FHA programs; as HHFA administrator, he set in place new regulations to better guarantee agency responsiveness to minority housing needs; and as HHFA administrator, he reestablished the post of Special Assistant for Intergroup Relations that had been eliminated by Cole.⁷⁵

Mason's views on race and housing sounded quite progressive soon after his appointment as the head of HHFA. Thus, he told the Commission on Civil Rights: "We can and must take needed action in all our programs to assure equal treatment and opportunity in their benefits to all our citizens, irrespective of race, color, or creed."⁷⁶ Similarly, at the close of the Eisenhower administration, Mason's housing report to the President claimed significant progress in fair housing.⁷⁷ Yet Mason's progressive rhetoric was deceptive. He refused to support broad prohibitions on discrimination by the federal government, opposed an executive order requiring nondiscrimination in federally assisted housing, and declined to back legislation that would deny mortgage guarantees to builders who failed to pledge nondiscrimination.⁷⁸ He questioned the need to collect data on the race, color, creed, or national origin of participants in FHA programs. During the waning months of the administration, Mason also overestimated the fair housing accomplishments of the Eisenhower era to Senator Jacob Javits (R-NY), asserting: "The president has made clear this objective [equal housing opportunity] in a number of different ways to the various agencies concerned with this problem. Very great progress has been made in the last few years as a result of this leadership."⁷⁹ The record simply fails to bear this out.

⁷⁴ Memo from Hatcher to National Public Interest Organizations, 22 June 1954; memo from Mason to Directors of All Field Offices, 30 March 1955, RG 207, Department of Housing and Urban Development, Program Files, Box 748, NA II; HHFA News Release, 2 June 1955; HHFA News Release, 9 February 1957, RG 207 Department of Housing and Urban Development, Program Files, Race Relations Program 1946–1958, NA II.

⁷⁵ Letter from Cole to Washington, 30 July 1957; Ronald Alan Schlundt, *Civil Rights Policies in the Eisenhower Years* (unpublished PhD dissertation, Rice University, Houston, TX, 1973), 115, 118.

⁷⁶ Quoted in U.S. Commission on Civil Rights, *With Liberty and Justice for All: An Abridgment of the Report of the United States Commission on Civil Rights* (Washington, DC: Government Printing Office, 1959), 170–171.

⁷⁷ Report to the President on Housing [1961], Dwight D. Eisenhower, Papers of the President, 1953–61, Ann Whitman File, Administration Series, Box 26, DDEL.

⁷⁸ Schlundt, *Civil Rights Policies*, 117–119.

⁷⁹ Letter from Mason to Jacob K. Javits, 23 August 1960, RG 207 General Records of the Department of Housing and Urban Development, Housing and Home Finance Agency (HHFA), Subject Files, 1947–1960, Box 189, NA II.

FHA AND RESIDENTIAL SEGREGATION DURING THE EISENHOWER YEARS

After 14 years of promoting residential segregation, would FHA's small steps toward equal opportunity during the Truman presidency continue after the November 1952 election of Eisenhower? While the pace of change slowed at FHA between 1953 and 1960, there were signs of responsiveness during the new administration. According to the Commission on Civil Rights, in 1954, FHA Commissioner Mason said he planned to support more demonstration open-occupancy projects.⁸⁰ Later that year, Mason's objective was realized as FHA offices were told to shift toward open-occupancy demonstrations. Second, in 1957 FHA revealed that it might terminate business with builders who failed to comply with state fair housing laws. And, in 1960, FHA announced that it might cease to do business with realtors practicing discrimination in the sale and rental of FHA-acquired properties.⁸¹

Despite this, FHA did not abandon its old policy direction in the 1950s. Although the agency no longer overtly encouraged restrictive covenants, segregation was still commonly permitted in its mortgage insurance program during the Eisenhower administration. In particular, large numbers of suburban builders discriminated against African Americans while receiving FHA mortgage insurance.⁸² This was most apparent in the Levittown suburban communities in New York, New Jersey, and Pennsylvania, but these and other large development companies were only part of the problem; smaller companies were also guilty of segregating in order to increase sales to whites.⁸³

The Levittowns deserve special attention because of their notoriety during the post-World War II era. They were the creation of William Levitt, one of the country's largest home builders, whose mass production techniques manufactured more than 17,000 modest single-family homes on Long Island alone in the late 1940s and provided housing opportunities to scores of American families. In building these suburban communities, Levitt had access to federal assistance, often getting FHA assurances for thousands of homes before any were constructed.⁸⁴

⁸⁰ U.S. Commission on Civil Rights, "The Emergence of a Policy," reprinted from *Housing—1961* (Washington, DC: Government Printing Office, 1961), 17.

⁸¹ U.S. Commission on Civil Rights, *Civil Rights '63* (Washington, DC: Government Printing Office, 1963), 97.

⁸² Attachment to memo from Ray to Cole, 22 April 1954, RG 207 Department of Housing and Urban Development, Program Files, Race Relations Program 1946–1958, Box 748, NA II.

⁸³ Attachment to letter from Ray to Rabb, 12 February 1954.

⁸⁴ Jackson, *Crabgrass Frontier*, 238.

The problem was that Levittown communities openly practiced racial segregation during the 1940s and 1950s while receiving a great deal of FHA assistance.⁸⁵ In 1948, for instance, the Levittown on Long Island included a restrictive covenant in all leases.⁸⁶ The Levittowns in New Jersey and Pennsylvania included similar provisions in their deeds, while civil rights advocates repeatedly complained that this practice was illegal.⁸⁷

FHA nevertheless refused to terminate its assistance to Levitt during the Eisenhower administration. In late 1955, for example, six years after the agency agreed not to insure loans in which restrictive covenants were used, FHA continued to make commitments to Levitt's developments.⁸⁸ Earlier in 1955, in testimony on Capitol Hill, Albert Cole suggested that Congress exercise caution in considering a ban on racial segregation in the FHA mortgage insurance program.⁸⁹ At that time, FHA was still providing mortgage insurance on properties containing racially restrictive covenants—seven years following the Supreme Court's decisions in *Shelley v. Kraemer* and *Hurd v. Hodge*. It is not surprising, then, that no African Americans were among the 82,000 inhabitants of the Long Island Levittown by the final year of the Eisenhower administration.⁹⁰ As the Civil Rights Commission complained in 1959, FHA mortgage insurance was still flowing to large builders who had openly excluded black Americans in the past and apparently planned to do so in the future.⁹¹

CONCLUSION

Harry Truman's contribution to American fair housing policy has never been fully recognized or appreciated by scholars.⁹² During preceding administrations, no progress was made toward equal housing opportunity. However, the Truman administration exerted some pressure on FHA—precisely how much it is difficult to say—to change its long-standing policy of encouraging the use of restrictive covenants. For the first time, Truman

⁸⁵ Hirsch, "Choosing Segregation," 213–214; Jackson, *Crabgrass Frontier*, 241; Wilson, "Concentrated Poverty," 559.

⁸⁶ This covenant is quoted in a letter from Thurgood Marshall to Franklin Richards, 28 October 1948, RG 31 Records of the Federal Housing Administration, Commissioner's Correspondence and Subject File, 1938–58, Box 6, NA II.

⁸⁷ Letter from Marshall to Richards, 28 October 1948; letter from Thurgood Marshall to Harry S. Truman, 1 February 1949, Papers of Philleo Nash, Box 57, HSTL.

⁸⁸ Memo from W.S. Newlin to Norman P. Mason, 20 December 1955, RG 31 Records of the Federal Housing Administration, Commissioner's Correspondence and Subject File, 1938–58, Box 1, NA II.

⁸⁹ Associated Press, 14 July 1955.

⁹⁰ Jackson, *Crabgrass Frontier*, 241.

⁹¹ U.S. Commission on Civil Rights, *With Liberty and Justice for All*, 170.

⁹² See, for example, Berman, *The Politics of Civil Rights*; Gardner, *Truman and Civil Rights*; Hamby, *Man of the People*.

placed the Democratic Party on a trajectory in support of fair housing, and the appointments of Chief Justice Fred Vinson, Attorney General Tom Clark, and Solicitor General Philip Perlman were critical in moving the nation toward such a policy.

Truman's DOJ appointees appeared quite responsive to the President's policy preferences, and Vinson authored the Supreme Court's landmark decisions in *Shelley v. Kraemer* and *Hurd v. Hodge*. FHA, on the other hand, shirked the will of both the President and the Supreme Court by continuing its segregative practices involving restrictive covenants. FHA was able to do this in part because Truman failed to stress clearly and repeatedly his opposition to housing segregation and induce his FHA appointees to respond. Presidents need to "set and communicate a consistent theme and then motivate bureaucrats to respond" if they are to control the bureaucracy.⁹³ Truman failed on both counts. He publicly mentioned his opposition to housing discrimination and segregation on only one occasion, that statement coming over four years after *Shelley* and *Hurd*, and we find few if any indications that he motivated FHA to respond either before or after his public stand.

Yet explaining why FHA failed to enforce Truman's policy preferences is more involved than this. Presidents may increase their control or influence over bureaucracy in other ways: by carefully selecting appointees, giving them specific policy instructions, monitoring whether they are following those instructions, and providing specific incentives for their agents to act accordingly. Based on the evidence, Truman failed, in part or whole, to do virtually all of these things as they related to FHA's restrictive covenant policy. His choice of Foley as HHFA administrator and Richards as FHA Commissioner apparently did not take into account their civil rights views or backgrounds. Nor do archival documents show that Truman or his DOJ appointees provided Foley or Richards with specific policy guidelines regarding restrictive covenants until around the time of Perlman's announcement of FHA's new policy in December 1949. Incentives by Truman appear nonexistent, although there are indications that he intended FHA's policy to be monitored by DOJ during the waning months of the administration.⁹⁴

Overall, then, although Truman was the first American president to state publicly his opposition to housing discrimination and segregation, and to have that position reflected in the behavior of his DOJ and Supreme

⁹³ Kenneth J. Meier and John Bohte, *Politics and the Bureaucracy: Policymaking in the Fourth Branch of Government*, 5th ed. (Belmont, CA: Thomson Wadsworth, 2007), 166.

⁹⁴ McCoy and Ruetten, *Quest and Response*, 215–216.

Court appointees, he seemingly took few active steps to ensure that his policy preferences actually translated into significant policy change at FHA. In addition, FHA was able to evade the Supreme Court's decisions because *Shelley* and *Hurd* did not specifically pertain to FHA. After all, these cases dealt with whether state and federal courts could enforce restrictive covenants, not whether FHA could maintain policies encouraging them. The connection between the Court's decisions and FHA's policy was implicit but not direct. Nor was this a case of bureaucratic autonomy, where other political actors deferred to the policy preferences of an expert agency and its leadership. Rather, this was a quite blatant refusal by the bureaucracy to respond to other policymaking institutions under the circumstances, given its leaders, its business orientation, its culture, and its history.

In contrast, Dwight Eisenhower's public statements and actions demonstrate that fair housing was not one of his political priorities. Eisenhower's administrative selections at HHFA and FHA, in particular, suggested his acceptance of the federal government's traditional policy concerning race and housing. This was especially true of the choice of Albert Cole, probably the most important federal housing official of the 1950s. Under Cole, FHA virtually ignored the fair housing policy direction of the Truman administration, and there was apparently no pressure from the Eisenhower White House to do otherwise. Levittown suburban developments were striking examples of how FHA continued to permit segregation in its mortgage insurance program during the 1950s.

Scholars have concluded that presidents can significantly influence public policy through their appointments and that bureaucratic responsiveness has characterized some periods of American politics.⁹⁵ But we show how the leadership of an executive branch agency can in fact resist presidential influence and persist on an old policy trajectory when a new administration ascends to power, even after Supreme Court decisions suggest that the old policy was of questionable legality. Bureaucracies are not necessarily responsive to presidential influence, and whether a principal's preferences are implemented—and how—is critical to the substantive content of policy.⁹⁶ Ultimately, in our system of separation of powers, it is difficult for presidents, Congress, or the courts to exercise “coherent,

⁹⁵ Golden, *What Motivates Bureaucrats?*; Lewis, *The Politics of Presidential Appointments*; Wood and Waterman, “The Dynamics of Political Control.”

⁹⁶ Charles S. Bullock III and Charles M. Lamb, eds., *Implementation of Civil Rights Policy* (Monterey, CA: Brooks/Cole, 1984); Jeffrey L. Pressman and Aaron B. Wildavsky, *Implementation*, 3d ed. (Berkeley: University of California Press, 1984).

central control” over bureaucracies.⁹⁷ Bureaucracies may be responsive under some circumstances yet resistant under others, to the point of refusing to implement presidential preferences. FHA leadership dug in its heels when Truman, DOJ officials, and the Supreme Court all indicated that the agency should change its policy of encouraging residential segregation. After agency resistance during the Truman years, Eisenhower’s appointees at FHA demonstrated little concern about the segregation that continued to permeate federal housing programs, and the President took no action to change FHA policy. In short, Truman could not control FHA policy, and Eisenhower felt no need to modify it.

This article presents a case study and, of course, its findings do not apply to all bureaucracies. Based on this study, however, the determinants of bureaucratic responsiveness include the intensity of presidential preferences, the frequency of their public expression, the degree of presidential influence or control exerted on an agency, the history and traditional policies of an agency, agency leadership, the extent to which presidential appointees at an agency continue to embrace past policies, and the strength of congressional and interest group pressures. As was true in Truman’s case, presidents may need to develop administrative strategies for influencing policy implementation to ensure that their preferences are in fact followed. Ultimately, to overcome FHA’s recalcitrance and promote permanent changes in the direction of housing policy, the forceful and persistent leadership of Lyndon Johnson was essential—leadership that significantly contributed to the passage of the Fair Housing Act of 1968 and the subsequent end of FHA’s policy in support of residential segregation.⁹⁸

⁹⁷ Terry M. Moe, “The Presidency and the Bureaucracy: The Presidential Advantage” in Michael Nelson, ed., *The Presidency and the Political System*, 7th ed. (Washington, DC: CQ Press, 2003), 425–457, at 427.

⁹⁸ Charles M. Lamb, *Housing Segregation in Suburban America since 1960: Presidential and Judicial Politics* (New York: Cambridge University Press, 2005), 31–55.