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A JOURNAL OF POLITICS & CULTURE

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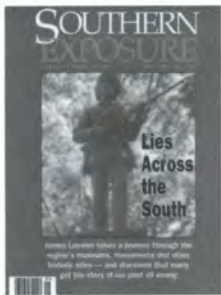


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SOUTHERN EXPOSURE has been published since 1973 by the Institute for Southern Studies. With its combination of investigative reporting, historical perspective, oral histories, photography, and literature, the magazine has earned a national reputation. The magazine has received several Project Censored Awards; the Sidney Hillman Award for courageous reporting on racial injustice; two Alternative Press Awards for best regional publication; a National Magazine Award; and the John Hancock Insurance Company award for economic reporting.

THE INSTITUTE FOR SOUTHERN STUDIES is a nonprofit center working for progressive change in the region. Since its founding in 1970, the Institute has sponsored research, education, and organizing programs to (1) empower grassroots organizations and communities with strong local leadership and well-informed strategies, (2) provide the information, ideas, and historical understanding of Southern social struggles necessary for long-term fundamental change, and (3) nourish communication, cooperation, and understanding among diverse cultural groups.

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2001

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From the Editor

Southern Exposure is back.

For over a year, *Southern Exposure* has been missing from your mailboxes and local newsstands. The culprit – as it is with so many other grassroots, independent publications – has been money. Although making the most of a lean budget has always been our specialty, last year we hit a short but severe financial crunch, and were forced into a temporary hiatus.

But I'm pleased to say *SE* is back in business – and given recent events, it seems like we're just in time.

We're excited about our plans for *Southern Exposure*, envisioning new looks and new editorial directions – while continuing to deliver hard-hitting and heart-felt journalism for a better South. With help from our friends at the Independent Press Association, we're also drawing up a business blueprint to keep *SE* economically sound.

What does this mean for you? In the spring of 2002, we will launch the new

Southern Exposure – beginning with a timely investigation of the South's central role in American militarism.

In the meantime, we're publishing this "mini-edition" of *SE* as a gesture of our good intentions, and to help tide you over.

Curious and engaged readers like you are the lifeblood of any good magazine, especially one dedicated to grassroots social change. If you're an old friend, thanks for your stubborn loyalty. If you're a new reader, we hope you enjoy this glimpse of things to come.

We also hope that you, readers old and new, will join us in ensuring a bright future for *Southern Exposure*. Here are a few concrete ways you can be part of *SE*'s resurgence:

1. **If you're a subscriber whose time is up, be sure to renew. You are guaranteed a full set of four issues – and you won't want to miss the exciting editions of SE we have in store.**
2. **If you're not a subscriber, now is a good time to join. For a limited time, we're offering a low first-time rate of just \$21 – see the form in the back.**
3. **Know a friend or family member who might enjoy a fresh, progressive take on the South? Sign them up for a holiday gift subscription, using the form in the back.**
4. **Early next year, you'll be receiving a reader's survey in the mail. Give us a piece of your mind about what you like – and what you don't – about SE.**
5. **And finally, this holiday season, consider making a healthy donation to Southern Exposure and its publisher, the Institute for Southern Studies. Your donation of \$35, \$50 or whatever you are able will make sure SE endures as a powerful progressive voice. It also supports the Institute's research and education programs for a more just and democratic South.**

Until we see you again – keep carryin' on. You have our best wishes for a peaceful new year.

– Chris Kromm

We're envisioning new looks and new directions for SE – while continuing to deliver hard-hitting and heart-felt journalism for a better South.

GOLD & GREEN: TOGETHER AGAIN

From the mountains to the coasts, from the awe-inspiring native forests to the subtly satisfying Piedmont hills, Southerners take great pride in the splendor of their natural heritage.

Sadly, the region's unique environment is under assault from a multitude of forces and directions. Burgeoning city sprawl, rampant deforestation, and growing toxic threats to land, air and water have all seized headlines and stirred countless communities to action.

Yet when concerned citizens across the South organize to protect their environmental health, they are routinely faced with a common refrain: environmental protection costs jobs. Business and political elites argue that environmental standards are, at best, a drag on economic performance, and at worst, a threat to the livelihood of entire communities.

The persistent "jobs vs. the environment" myth has powerful effect, often stalling environmental standards, and pitting working families against environmental advocates. This is especially true in impoverished Southern communities, which are desperate for jobs and have to take seriously corporate threats of layoffs and other economic fallout from protecting the environment.

INVESTIGATING THE MYTH

But does protecting environmental health really have to come at the expense of jobs and economic performance? To find out, the Institute investigated the "jobs vs. the environment" myth in a six-month study, *Gold and Green 2000*.

Gold and Green 2000 ranked all 50 states on two separate lists of indicators: one measuring each state's economic performance, and the other measuring stresses on the natural environment. The economic indicators included annual pay, job opportunities, business start-ups and workplace

injury rates; the environmental yardsticks ranged from toxic emissions and pesticide use to energy consumption and urban sprawl.

Comparing the two lists revealed remarkable correlations:

Seven states rank in the top 15 for both economic and environmental health. Vermont, Rhode Island and Minnesota rank in the top six on both lists. Other "top performers" with high marks on both scales are Colorado, Maryland, Maine, and Wisconsin.

Conversely, ten states – mostly in the South – are among the worst 15 on both lists. For example, Louisiana ranks 48th on economic performance and 50th on the environment. Others in the cellar are: Alabama, Texas, Tennessee, Mississippi, Indiana, Arkansas, West Virginia, Kentucky, and South Carolina.

The conclusion of these findings is clear: States with the best environmental records also offer the best job opportunities and climate for long-term economic development. And conversely, states that rank lowest for environmental health – clustered largely in the Southern part of the country – also have the worst economic prospects.

"In the 2000 elections, political leaders were still debating about whether protecting the environment will cost jobs," says Chris Kromm, Institute director and co-author of the report with Keith Ernst and Jaffer Battica. "What this study finds is that the trade-off myth is untrue. At the policy level, efforts to promote a healthy environment and a sound economy go hand-in-hand."

Gold and Green 2000 is an updated version of a similar study authored by the Institute in 1994. The original study had similar findings, and the authors observe that comparisons of the 1994 and 2000 reports offer a useful yardstick for gauging which



states are improving – or falling behind – on their environmental and economic records. For example:

While there was some jockeying among “bottom performers” – those ranking in the lower 15 on both environmental and economic scales – since the 1994 edition of the study, only two states managed to escape from the bottom of the barrel in 2000: Ohio and Oklahoma.

Since 1994, the list of environmental and economic “top performers” – those with high environmental and economic scores – has seen more turn-over, with Rhode Island and Maine adding themselves to the honor role. While New Hampshire and Massachusetts continue to post strong economic numbers, greater environmental threats removed them from the top of the list. Similarly, the strong environmental records of Hawaii and Oregon could not offset these states’ sub-par economic performance.

“Now we have two similar studies that point to

the same conclusion: states can have a strong economy and protect the environment,” co-author Keith Ernst says. “And states that sacrifice their natural resources for quick-fix development aren’t improving their long-term economic prospects.”

BRIDGING THE DIVIDE

Gold and Green 2000 comes at a time when bitter battles have broken out over the supposed conflict between jobs and the environment. For example, in June 2000, national African-American and Latino labor leaders released a widely-reported study – commissioned by the coal industry-backed Center for Energy and Economic Development – opposing the Kyoto global climate treaty due to a perceived threat to “Black and Hispanic jobs.”

Across the country, local conflicts have pitted environmentalists against logging businesses, chemical companies, and other industries, who in turn raise the specter of job losses due to environmental standards.

But Gold and Green 2000 joins a growing chorus of experts who argue that, while businesses may



invoke the "jobs vs. the environment" trade-off to resist regulation, the myth is unfounded. For one, environmental regulation comes at a small cost.

"Even in the most highly regulated industries, the cost tops out at 2 to 3 percent of total operating costs," says Dr. James Barrett, environmental economist at the Economic Policy Institute. "Clearly, when industry says its going to shut down or move, it's not the environmental laws that are causing this."

Barrett also observes that steps can easily be taken to prevent economic dislocation. When environmental standards do impact industry – most frequently, companies that are already in decline – the answer is not to prolong the life of polluting or unsustainable businesses, but to ensure a "just transition" of workers to new jobs.

"Many people are talking about 'just transition' today, but there's been little effort to devise policies that work," Barrett says. As a model, he points to the Trade Adjustment Assistance Act, enacted in the 1960s and designed to assist workers laid off due to trade agreements. The Act has been little-used by

workers, mostly because it provides no income support to supplement the training it offers to employees seeking new jobs – an oversight that could be easily fixed.

The importance of constructively addressing the "jobs vs. the environment" myth may become more crucial in the coming years. As state budgets shrink and the economy slows, demands for quick-fix development – whatever the costs to the environment – will only grow. Sustainable development policies adopted now will be essential to averting conflict over the environment/economy divide in the future.

"This study shows that sustainable development is a matter of political will," says Kromm. "States that protect their natural resources also cherish their human resources. And states seeking quick-fix, unsustainable development end up sacrificing both workers and the environment."

For copies of *Gold and Green 2000*, (\$15 for Institute members, \$35 for non-members) use the order form in back of this issue.

New Orleans is a city of dappled sunlight playing through tall and lively oak trees. The same spotted sunlight falls on Spanish town homes, white antebellum mansions, and Victorian cottages with sagging porches. The sun filters through the trees, bespeckling children tap dancing for money and businessmen drinking chicory

Diary of a New Orleans Fair Housing Tester

By Sabrina Manganello
Simmons

coffee in cafés and complaining about the latest Saints fiasco. It also falls on miles of half-filled tenements.

Walking through these tenements, you see a makeshift barbershop on a front porch with men listening to hip-hop and laughing deeply. Children skip rope in complicated patterns, their shrill voices lifted in sing-song. Once, an old woman stopped me and asked if I was lost. "I am afraid to be here," she said as she stood at a bus stop waiting to go to work.

Part of my job in 1996 was to listen to black people tell me

deeply personal stories of humiliation. I investigated housing discrimination for the Greater New Orleans Fair Housing Action Center, a non-profit organization funded by the federal Department of Housing and Urban Development (HUD). The Center was the first of its kind in Louisiana.

The South lags in fair housing

LIVING ON THE WHITE SIDE

enforcement. For example, to date, there are no fair housing centers in Mississippi, yet HUD funds five such organizations in metropolitan Chicago alone.

During the Center's first three months in business, I conducted a fair housing testing audit of the city. I had been trained in testing procedures by the National Fair Housing Alliance. Testing meant that a matched pair of black and white volunteers inquired about apartments advertised for rent in predominantly white neighborhoods. Their experiences were then compared.

The audit showed that 77 percent of blacks looking for

apartments in these neighborhoods faced illegal discrimination. Owners lied to the black applicants, smiling and patting them on the back while assuring them that the apartments had just been rented. Well-dressed, well-spoken volunteers were denied apartments solely because of the color of their skin.

The Center's audit garnered intensive media coverage. Immediately after the 5 o'clock news on the day the results were announced, our phones starting ringing off the hook. Our staff stayed late into the evening, fielding calls and taking story after story. One person told me, "I have prayed for someone like you to come along. Please help us."

Shawn Walton* was one of the many callers who saw our number on the evening news. Her story shook me. "The others are afraid," she said. "I was afraid, too. But I am not anymore. It is wrong and I'm going to speak out about it, even if I do get evicted."

Shawn was 24 at the time. Her two children giggled in the background while she told me her story. Housing for Shawn was a precious commodity. Housing on the "Westbank," where she lived in a one-bedroom apartment, was even more precious, due to its relatively low crime rate. Yet she was willing to risk eviction to complain.

Riviera Oaks, her complex, was divided by a parking lot. To the right of the lot, black families and white women with multiracial children were housed, while on the left the manager placed white families and a few carefully-chosen blacks. Shawn had not been picked to live on what was known as the "white side."

Each side had its own swimming pool, as well as heating and air units. The heat and air on the black side was controlled by management, while the white side's apartments

featured individual thermostats. Tenants on both sides paid the same rents.

That summer I drove to Riviera Oaks to take some photographs. It was about 95 degrees under a blistering sun. My car's air conditioner was broken and it felt like an oven on the long drive. When I got there, I saw mothers on the black side sitting outside, sweat on their brows, holding babies. Nearby was a glistening aqua pool surrounded by a tall iron fence. A maintenance man carefully fished stray leaves out of the water.

A skinny boy begged me to ask when the pool would be open. The maintenance man said, "Six p.m., but only for adults." Adult, it turned out, meant 18. The boy was only 12.

On the white side, a sign read, "This pool for 3401 only. Tenants from 3301 use other pool." 3401 was the white side. In that pool, white children were splashing along with their parents in the crystal cold water.

Rina Johnson, a tenant on the black side, later became a witness in the case. She told me about the time her aunt and uncle, both in their late forties, came to visit her for the day and brought their bathing suits, hoping to go for a swim. As usual, the pool on Rina's side was closed, so they went over to the white side to swim. Rina had never been there.

Within minutes, two white police officers arrived and ordered them out of the pool, threatening them with trespassing charges. The complex's manager, Linda Kreger, had called the police.

I soon learned about a New Orleans policeman known as "Paco." Tenants said that he lived on the white side rent-free in exchange for his services as "security guard." He routinely

entered apartments, sometimes with a partner, to see if everyone inside was on the lease. Those who weren't were arrested for trespassing. Numerous stories ended, "Then I had to go pay 90 dollars to get him out of jail." Young, unmarried fathers visiting their children seemed to be particularly favored targets of this practice.

One of these fathers was returning to Riviera Oaks from the grocery store, carrying grocery bags stuffed with food and diapers for his girlfriend and child, when Paco apprehended him. He and his girlfriend tried to explain that he was a guest, but Paco arrested him for trespassing anyway, telling him, "Every time I catch you over here, you're going to jail."

Fresh on everyone's minds during my interviews was an incident involving a young pregnant woman named Sharon. It began with argument between Sharon and Linda Kreger, the manager, after which Kreger sent Paco to Sharon's apartment, ostensibly to search for guns.

News of the argument traveled quickly. When Paco came, accompanied by police officers, a group of tenants, including some of Sharon's cousins, gathered outside her apartment. Sharon's boyfriend answered the door. When he saw Paco and a partner, he demanded a warrant. "What kind of education do you have to ask for a warrant?" Paco said, then grabbed the young man and handcuffed him.

Meanwhile, Kreger pointed Sharon out: "She's the one." Sharon ran, but the police caught her easily. In the struggle, she was kned repeatedly in the stomach, despite screaming over and over again, "I'm pregnant!"

Sharon's relatives, all female and including her 13-year-old sister, tried to pull the cops off. More police arrived, and a general

melee ensued. In the midst of all this, Kreger shouted racial epithets and threatened to evict "all you black whores." No guns were found in the apartment, but Sharon, her boyfriend, and her sister were all arrested.

Sharon miscarried that day.

One of the cousins involved in the fight later told me that from then on Paco and other police constantly harassed Sharon, until she finally moved in with another relative in a housing project.

After the incident there was talk among the black side tenants of not paying rent. Someone called a television news crew, but Kreger denied them access to the complex. "No trespassing," she told them.

Maintenance on the black side was abysmal. The maintenance man, who was African-American, later became a witness, and told of sneaking over to the black side to fix things without Kreger's approval. He said black requests for repairs were treated with indifference by the staff.

He also said that he ate lunch in his truck to avoid sitting in the office with the white Riviera Oaks staff, who made racist remarks in his presence. "Can't they see I'm black?" he asked. Interviews with tenants confirmed the maintenance man's description of repairs on the black side.

Yet even after hearing the fear in mothers' voices as they told about fire hazards and rats biting their children, nothing could have prepared me for Chantal's nightmare. Sewer lines had broken in her apartment and flooded the living room with raw sewage, leaving the carpet soaking wet and stinking.

Instead of moving Chantal and her daughter to one of the vacant apartments on the white side, Kreger waited until one on the black side became free. By the

time they moved, the child had become ill.

To bolster our case, we decided to test the complex. Though Riviera Oaks certainly looked segregated, and we had witnesses and anecdotal evidence, testing would provide an objective measure of housing discrimination.

I played the role of a white tester, and my counterpart was Tim, an African-American man. We drove to Riviera Oaks together and parked across the street. I waited in the car while Tim walked over to inquire about apartments. When he came back, it was my turn.

Upon entering the small leasing office, I met Kreger, a short, heavysset blonde. They didn't have any one-bedroom apartments available at the moment, but one would be vacated soon. Kreger gave me the number. I walked outside and looked for the apartment. It was on the white side.

Back in the car, Tim told me that he was shown two apartments, both on the black side. The office wanted to do a criminal check on him before they rented to him, a requirement they didn't mention to me.

When we first met at tester training, Tim told me that he had left New Orleans during Jim Crow. "You couldn't even walk down Bourbon Street," he said. "I know what discrimination is, I've been black all my life."

A few more rounds of tests confirmed that the manager was clearly steering black testers to the black side and white testers to the white side. When we completed the investigation, we referred the case to Sue Kohn, a partner at a prominent New Orleans law firm. Attorneys love fair housing cases, because good testing procedure yields solid evidence, and the plaintiffs' lawyers can collect their

fees from the other side if they win.

The day we filed the lawsuit, I stopped at Riviera Oaks to take a few more pictures. Kreger saw me and promptly kicked me off the premises for trespassing.

Shortly thereafter, the owners of the complex, the Favrots, a prominent New Orleans family, fired Kreger and her staff. They settled the case in March 1998 for \$325,000, and were forced to sell the apartments.

Shawn Walton received her share of the settlement and bought a home for her family in a safe suburb of New Orleans. She told us, smiling, that she bought a house on an all-white street.

HUD made a promotional video about the case. On the video, Shawn says, "Everybody's here for a purpose. I feel some people leave this world not knowing what their purpose is. Look at me, I'm here for a purpose. I found out what that purpose was. So if I close my eyes today or tomorrow, I have done something. I made a difference in somebody's life."

Since the Greater New Orleans Fair Housing Action Center opened in 1995, it has filed 18 lawsuits resulting in almost \$800,000 in damages, submitted dozens of fair housing complaints to HUD, and otherwise advocated on behalf of numerous victims of discrimination. The Center, with a staff of four and a team of volunteer lawyers, board members, and testers, is making a difference, too – a big difference.

* Some of the names have been changed to protect privacy.



Fair Housing Act Primer

A short lesson

on the law

and

enforcement

options

On April 10, 1968, amid anguished inner-city rioting after the assassination of Martin Luther King, Jr., Congress passed the Fair Housing Act. No longer would it be legal to deny anyone a place to live because of his or her race, religion, color, ethnicity, or sex.

The act outlawed redlining, a practice used by banks to deny loans to African-American communities. Insurance companies were barred from offering inferior coverage to home owners solely because they lived in black neighborhoods. Realtors could no longer legally steer blacks away from white areas, or vice versa.

In 1988, the law was expanded to include a prohibition on discrimination based on disability

or the presence of children. Newly constructed apartment buildings were required to be wheelchair-accessible. Landlords could no longer keep disabled people from making reasonable alterations to an apartment to assist with independent living. The mentally ill could no longer be discriminated against. Landlords were kept from barring children or segregating families with children within a complex.

However, even with this broad law on the books, not much has changed since its passage.

According to *American Apartheid: Segregation and the Making of an Underclass* by Douglass Massey and Nancy Denton, 78 percent of African Americans now live in segregated black neighborhoods, and one-third live in extremely segregated ghettos where they have little or no contact with people of different races.

Massey and Denton write, "Conditions in the ghetto have deteriorated markedly since the 1968 Fair Housing Act was originally passed."

A 1995 study conducted by the Montgomery (Ala.) Fair Housing Center reported that 70 percent of African Americans faced some type of illegal discrimination in their search for rental housing in Montgomery. A 1997 study in Jacksonville, Fla., reported a 58 percent rate of illegal discrimination. Other studies throughout the South confirm these high rates.

There are many resources

available to combat housing discrimination. If you're lucky enough to live in a community with an effective private fair housing center, community members can work to eliminate housing discrimination, one case at a time. Anyone can get involved by reporting discrimination to the

numerous other fair housing violations, advocating on behalf of victims of discrimination.

A good fair housing center works in the following areas:

EDUCATION AND OUTREACH: This involves educating the community to recognize and



center, serving on the board, or volunteering as a tester.

Centers usually get the bulk of their funding from HUD. As with any non-profit organization, the centers are only as good as their staffs and boards. Some are extremely effective; others might need some prodding from the community to make an impact.

Since the Greater New Orleans Fair Housing Action Center (FHAC) opened in 1995, they have assisted in filing 18 lawsuits yielding almost \$800,000 in damages. Additionally, they have filed dozens of HUD fair housing complaints and negotiated

report housing discrimination, as well as training housing providers. Strong ties to the community and other civil rights groups are necessary – the center does not operate in a vacuum.

TESTING: Centers can test for rental, sales, insurance, and mortgage lending discrimination. The key to a good testing program is the training of testers and testing coordinators. While testing is not a scientific process, proper training of participants creates accurate and objective tests that

can serve as powerful evidence in a court of law.

ENFORCEMENT: Many centers recruit “cooperating attorneys” who do not charge for their services, but will retain their fees from defendants if they prevail in a case. Attorneys may negotiate settlements for clients in state or federal court, or may help clients file cases with governmental agencies.

Accessible to every American is the HUD fair housing complaint process. In almost every newspaper, housing advertisements begin with a telephone number to report housing discrimination. The HUD process helps resolve violations without the use of the courts, and consists of the following:

NEGOTIATION: HUD's first goal is to work out a compromise between the two parties.

INVESTIGATION: If no compromise can be met, HUD has certain powers to investigate a case, in some ways more power than a private fair housing center. HUD investigators can demand to see application files, for example, or openly interview tenants and other parties involved. Other techniques include creating maps outlining the racial composition of a neighborhood or complex. In disability cases, they have the

power to determine whether construction meets fair housing guidelines.

DETERMINATION OF CAUSE/NO CAUSE: At the end of an investigation, assuming no settlement has been reached, HUD will either determine “cause,” meaning there is evidence of illegal discrimination; or “no cause,” meaning they have found no conclusive evidence of discrimination. If they find “cause” then the case will go to an Administrative Law Judge, who will determine the outcome of the case. If they find “no cause” then the complainant will be given a “right to sue” letter, which allows a private attorney to bring an action in court.

Because HUD is a neutral party, victims of discrimination should actively self-advocate. Above all, have a clear and realistic idea of what you want before filing a complaint. Maintain a strategic stance throughout the process, as the other side will probably have an attorney handling the case. Put all pertinent communication in writing, and keep copies of everything. If negotiation is not an option, make sure to request an investigation. You can even suggest investigative techniques.

For example, an African-American man is denied an apartment that suits his needs, ostensibly because of his credit report. He believes he has excellent credit, however, and

suspects the denial to be motivated by racial discrimination. He files a complaint with HUD, demanding a rental agreement as well as \$1000 in expenses incurred due to the refusal to rent to him. He gives a copy of his credit report to HUD, along with a detailed list of the expenses.

After two months, he has not heard from HUD, so he both writes and calls his investigator. He requests that the investigator compare his credit report with that of the white tenants in the building.

The next thing he hears, after several months, is that the complex will give him the apartment but no monetary compensation. Depending on how strongly he feels about the issue, he can either continue to press his case or agree to accept their offer.

Finally, a private attorney can take a fair housing case. For help finding a local attorney interested in these cases, contact a civil rights organization such as the National Fair Housing Alliance, the NAACP, the ACLU, or a local Legal Aid office.

Best of the Southern Press



**The 12th
Annual
Southern
Journalism
Awards**

Last year, Southern Exposure and our publisher, the Institute for Southern Studies, announced the winners of the 2000 Southern Journalism Awards. As the Awards have done for the past 12 years, the contest honored those reporters whose stories broadened the range of issues, voices and sources covered in the region's daily newspapers.

The 2000 Awards went to journalists who delivered hard-hitting stories in two areas: general investigative reporting, and this year's special category, "prisons and alternative approaches to justice." The special category was chosen in light of the nation's skyrocketing prison population – which reached 2 million people in the late 1990s – with Southerners and African Americans claiming a disproportionate share of those behind bars.

"The winning entries this year were outstanding efforts that combined impressive empirical research with poignant anecdotes," said Keith Ernst, coordinator of the Institute-sponsored Awards. "They showed how subjects as complex as the privatization of prison health care affect everyone."

Winners were selected in divisions based on the size of the newspaper's circulation. Papers from Alabama, Florida, Georgia and North Carolina won in the prisons and justice category; Alabama, Florida, North Carolina and Tennessee were represented for general investigative entries. (A complete list of the winners in the two categories and four divisions can be found at the Institute

website, www.southernstudies.org.)

According to Ernst, the Awards are designed, "to recognize reporters whose articles demonstrate top-notch research and writing. Winning journalists asked tough questions and wrote difficult stories that helped a community better understand and react to important issues."

"In part, the making of an award is also a tribute to a reporter's newspaper for allowing the author the time and resources to develop a story," Ernst said. He added, "by ensuring that their well-written articles included a rich diversity of community sources, these writers have demonstrated the best potential of the media to analyze a community's problems and contribute to its positive change."

Following are excerpts from four of the eight award-winning investigations. Although the stories were published up to two years ago, we believe that part of their strength derives from their enduring quality. The perspective of time also allows us to see how the issues brought to light have – and haven't – changed. With each story, we've provided a short update to better understand how the issues have evolved, and the role solid reporting played in adding to our understanding of events.

Congratulations, Southern Journalism Award winners! And for Southern Exposure readers, we hope you enjoy these models of courageous investigative journalism, the Best of the Southern Press.



*First Prize
Investigative
Reporting
Division One*

Neighborhood Schools – OR Resegregation?

**Concentrating poorer students
in inner-city schools could affect
learning, cost more**

by Debbie Cenziper and Ted Mellnik

Charlotte Observer

ALL PHOTOS COURTESY OF THE CHARLOTTE OBSERVER

The Charlotte Observer's series, "Deciding Desegregation," probed the potential costs of a lawsuit to end desegregation efforts in the Charlotte-Mecklenburg school system. In the aftermath of a landmark 1970 ruling by U.S. District Judge James McMillan (affirmed by the Supreme Court in 1971), Charlotte had come to be considered "the city that made busing work." In the late 1990s, however, white parents sued to reopen the case.

In this series, reporters Debbie Cenziper, Ted Mellnick, Celeste Smith, Jim Morrill, and Jennifer Rothacker

used computer analysis, historical research, and the personal accounts of community members to create a comprehensive, engaging journalistic triumph that one judge, a journalism professor, deemed "a model." The stories struck a nerve, drawing over 2,500 phone calls and widespread reaction in the community. The article reprinted here, the third in the series, explores the possible consequences of replacing a desegregated system with "neighborhood schools," where children would attend the nearest school, regardless of race or income.



The forced integration of Charlotte's schools brought familiar images of clashes between white students and black students under federal protection.

The most daunting challenge of neighborhood schools – more than an increase in one-race classrooms – could be inner-city campuses packed with Charlotte-Mecklenburg's poorest children.

If busing and other strategies that mix black and white children end, and all students are assigned to their nearest schools, the inner city would be home to almost every high-poverty school in the district, an Observer computer simulation shows.

And 13 schools would have a student poverty rate substantially higher than any Charlotte-Mecklenburg school has now. That's because so many poor children – now spread among many schools – would be concentrated on so few campuses.

Poor children aren't necessarily bad students. But educators say they often come to class hungry, tired, or ill-prepared, with social problems that can hinder their learning and overwhelm teachers.

Among the many worries: Curriculum is often less advanced in impoverished schools; teachers are harder to attract and keep; parent support is inconsistent. Underprivileged kids often have fewer college-bound peers as role models.

And isolating poor children means that at outlying schools, kids who are better off have less interaction with children from neighborhoods unlike theirs.

Veteran teacher Ann Grier fears another impact. It's about passing hope and high expectations to disadvantaged children, and drawing them out of their neighborhoods to see what the community has to offer.

In her classroom of fifth-graders at Sharon Elementary, Grier drills: "If you can believe it, you can do what?"

Jamarr Robinson wants to become a biologist. He's bused to Sharon from Charlotte's west side, and sits next to middle- and upper-income kids whose parents consider college an education staple. He shifts from foot to foot and answers. "You can achieve it."

African American school board member George Dunlap attended an integrated school in the 1970s, and sums up Grier's concern like this: "If poor kids don't see that there's a better way, or there's a better life, if everybody looks like them and it's hard to see that world outside of theirs... for the kid who is really distressed about that, where's the hope?"

The parents and community leaders pursuing neighborhood schools counter that Charlotte will find the money to support impoverished campuses with essentials such as preschool, smaller classes, parenting and adult literacy classes, higher teacher salaries that attract top-quality educators.

They say bringing additional resources to some of the district's neediest students will be more effective than busing kids out of their neighborhoods, and maybe even lowering their self-esteem by sending them to schools with children who have more.

Many experts say it's too soon to tell whether neighborhood assignments in systems that used to bus students can provide better schools for all children. School systems in a growing number of cities, including Denver and Cleveland, have moved away from desegregation practices, but it will take years to measure the effects.

John Lassiter, Charlotte-Mecklenburg school board vice chairperson, expects all children to benefit if busing for desegregation ends. Often, he said, there's a fear that disadvantaged students sometimes slow teachers down and hold classes back.

"If you have a school where a significant number of children aren't reading on grade level and you're trying to get through American history, how do you do that?" Lassiter said. "You certainly need to figure out how to get those children on par with all children within the system, and simply transporting them somewhere else doesn't have any [instructional benefit]."

Bill McCoy, director of the Urban Institute at UNC Charlotte, said

high-poverty schools have been less of a concern in Charlotte than in other urban communities because desegregation has spread poor children among many campuses. Two-thirds of the county's poor children are African American.

McCoy predicts high-poverty schools will need more resources than other schools – equal resources won't be enough. And he said the community must be willing to spend the money. National studies show high-poverty schools tend to have more dropouts, less success preparing students for college, fewer high-level courses. Students are less likely to complete high school on time, and more likely to live

in poverty later in life.

"It can be addressed, but to be addressed, it means you put substantially more money into one of those schools than you in the schools out on Providence Road somewhere," McCoy said. "This largely depends on public will to do things for people who are not very well represented, generally speaking, and who don't come together and voice demands, generally speaking, and who probably have low expectations of their kids.

"We would have to move to a level of looking at that problem that the community has never moved to yet."

Families on the edge

Charlotte-Mecklenburg struggles with some impoverished schools now. Some campuses lost racial balance when the school board in the early 1990s stopped busing thousands of students to schools far beyond their neighborhoods. Concentrations of poverty on some campuses inched upward.

Among the 425 children at Westerly Hills Elementary on Mecklenburg's western edge, 350 show up in the cafeteria before class each morning for a free breakfast. Money is always at issue. Principal Joan Newman wants to take her kids to Raleigh or maybe on an out-of-state field trip – many have never stepped beyond the borders of Mecklenburg County. But she doesn't have the money to pay for gas for the school bus.

And she doesn't want to ask parents to chip in. "They are already on the edge when it comes to having the money to meet the needs of their families," Newman said. "They don't have the extra things for PTAs or field trips and all the other things that make school important."

Under a neighborhood schools scenario The Observer produced, at least 27 campuses would have student poverty rates of 16 percent or more – high compared to schools now. More than 18,000 students could attend a high-poverty school, almost 6,000 more than today.

There wouldn't be a large leap in the number of high-poverty schools, but concentrations of poor children on some campuses would increase sharply. Elizabeth Traditional Elementary, for example, would have the highest poverty rate in the county under neighborhood schools – growing from 9 percent to almost 50 percent. Druid Hills Elementary has the highest school poverty rate today, 27 percent. Neighborhood schools would push it to 34 percent. The percentage of poor children at Spagh Middle would double; at Piedmont Middle, it would almost quadruple. One in four students at Harding High school would be poor under The Observer's study, compared to one in ten today.

The simulation uses the federal government's poverty level, currently an annual income below \$16,276 for a family of four. These poverty rates are lower than the





Integration not only evened out racial disparities, but class differences as well. A shift to neighborhood schools would increase concentrations of poverty by up to 40 percent.

measure of school poverty that school officials use: the number of students who qualify for a free or reduced-price lunch. More students qualify for the lunch program because its income limit is significantly higher.

Teacher turnover an issue

The concentrations of poor students worry school board chairperson Arthur Griffin. "America has decided that [subsidized-housing communities like Chicago's] Cabrini Green and [Charlotte's] Earle Village were not a good idea because you put too high a concentration of families in one place," he said.

"Poverty doesn't mean you're poor. Poverty means all the attendant problems that come with it. You're more likely to have experienced substance abuse somewhere. You're more likely to have low birth-weight experience somewhere. You're more likely to have experienced a single-parent family. You're more likely if you're concentrated to be in a classroom with 80 percent of the kids just like you."

Impoverished schools, including those in Charlotte, often have trouble attracting and keeping good teachers. Turnover creates an unstable staff that can't plan long-term, and it forces principals to spend hours on emergency hiring.

"More burden is on teachers [in poor schools] to

make that critical difference," Superintendent Eric Smith said. "There's a different kind of demand and quite often, you see it resulting in more rapid teacher turnover, younger teaching staffs, teachers that have fewer advanced degrees."

One concern educators have little control over is parent involvement, widely considered key to a child's success. Charlotte-Mecklenburg's parent participation statistics show a dramatic drop in involvement on campuses with high numbers of poor children. At McAlpine Elementary in south Charlotte last year, where two percent of children were poor, more than half the parents volunteered at least twice. At Thomasboro Elementary, where 17 percent of children live in poverty, one in 10 parents volunteered.

"The parent involvement, no matter how much you stress it, just can't be the same as it is in other schools," said Newman, the principal at Westerly Hills Elementary. "Many people who do not make enough to make ends meet have to work second shifts. The parent support, when it comes to the PTA, parent meetings, and teacher conferences – it's difficult."

Balancing needs, resources

Failure isn't inevitable in schools with poor children, Lassiter said. Charlotte-Mecklenburg has never seriously taken on the challenges of impoverished

schools, he said, by pumping more money into campuses with higher needs. Lassiter cites systems in other parts of the country that invest heavily in those schools by reducing class sizes, installing more technology, and offering such things as tutoring, child care before and after school, and classes for parents.

"We attempt to do that with roughly equal resources as opposed to where there are greater resources provided based on student need," Lassiter said. "Now, we don't have new facilities. We don't insist that we have the strongest group of teachers who are trained in dealing with children with that background."

Superintendent Smith sees high-poverty schools as a challenge the school system can take on – if the money is there. "The ultimate question is going to be, is there a commitment to do that, to make up the balance that's required if we were in that situation?" Smith said.

If not, students' learning could suffer. Charlotte-Mecklenburg statistics show the higher a school's poverty rate, the lower the test scores. At McKee Road Elementary last year, with a 2 percent student poverty rate, 94 percent of students could do the work expected at their grade level. Across town at Highland Elementary, a school with an 18 percent poverty rate, less than half the students were performing on grade level.

"These kids can learn"

Stan Frazier sees the challenges up close at Merry Oaks Elementary. Merry Oaks is a neighborhood school with a significant number of poor children and others who don't speak much English.

The first thing Frazier noticed when he took over as principal this school year was the absence of parents around school. He came from wealthier Eastover Elementary, and was accustomed to working with an organized PTA and parents who routinely showed up at teacher conferences.

At Merry Oaks, Frazier greets parents outside every morning to make them more comfortable at school, and said there's now much more involvement at special activities. He knows parents want the best for their children, but recognizes one of the reasons they don't often come to school is because some may not have fared well in school themselves.

Frazier is also encouraging teachers like Rus Elliott, who passes at least a dozen other schools to get to Merry Oaks because that's where Elliott feels he can make the biggest impact on young lives.

And Frazier is constantly searching for money.

He'd like to give Elliott and other teachers a bonus for staying at Merry Oaks. And he'd like to buy more books for classrooms, and pay for field trips for kids. He's scrounging to raise the \$800 he needs to send fourth-graders to Raleigh, and the \$1,600 or so it will take to send kindergartners and first-graders to the zoo.

"We wonder why kids don't do well on tests," said Frazier, with 23 years in Charlotte-Mecklenburg Schools. "I can talk about how warm the sand feels on my feet, but you want children to experience those things. How do they pass a test, if they've never touched a snake, if they've never tasted salt water? How do we expect kids to go to the millennium if they've never left their park or their neighborhood?"

Despite the struggle, Frazier wants teachers and the school community to believe every Merry Oaks student can be successful. Last year, despite the school's poverty rate, 65 percent of children were working on grade level. Frazier wants that number higher this year.

"You're constantly telling your teachers, 'These kids can learn,'" Frazier said. "You're constantly telling the parents, 'These kids can learn.' You're constantly telling the public, who may have misconceptions, 'These kids can learn.'"

"It can work, and it will work."

UPDATE: THE STORY TODAY

On September 10, 2000, U.S. District Judge Robert Potter, a Reagan appointee and political ally of Sen. Jesse Helms (R-N.C.), ruled that intentional discrimination had been eliminated from Charlotte-Mecklenburg schools, ordered the school board to stop all desegregation efforts, and required the district to pay the plaintiffs' attorneys' fees (over \$1.5 million). Potter, nicknamed "Maximum Bob" due to his penchant for tough sentences, is a staunch conservative who in the 1960s had circulated petitions against busing in Charlotte.

On November 30, 2000, a three-judge panel of the 4th Circuit Court of Appeals reversed Potter, but a September 21, 2001 review by the full court upheld his finding that the school district has achieved "unitary" (desegregated) status. The court, however, vacated Potter's prohibition of race-based school assignments, viewing it as unnecessary, and ruled that the district did not have to pay plaintiffs' attorneys' fees.

The Charlotte-Mecklenburg Board of Education voted unanimously not to appeal the decision, though it is not known what action other parties to the case (most notably, African-American parents who opposed the end of busing) might take.

– Gary Ashwill

Abuse Behind Bars



**Cruel and usual punishment:
Vigilante guards tolerated,
sanctioned by Florida prison system**

by Jo Becker
St. Petersburg Times

ALL PHOTOS COURTESY OF THE ST. PETERSBURG TIMES



In the series "Florida Prisons," reporters Jo Becker, Adam C. Smith, and Sydney P. Freedberg of the St. Petersburg Times comprehensively exposed the corruption, racism, physical abuse of inmates, accountability gaps, and other problems plaguing Florida's criminal justice system. The series led to the launching of an investigation of racism in the Florida Department of Corrections, a public apology from Gov. Jeb Bush to the mother of an inmate who died from shoddy medical care, and increased legislative scrutiny of Florida prisons. The following article is one of several on guards' use of excessive force against inmates.

The prisoners at Gulf Correctional Institute had every reason to fear Shannon Ward. Standing 5 feet 9, the 33-year-old former prison sergeant wasn't as physically intimidating as some. But the self-described "catchdog" was a man who could be counted on to rough up inmates who didn't toe the line – inmates who, in prison lingo, "showed their butts" by acting up or complaining about their civil rights.

"A catchdog," Ward matter-of-factly explained, "is someone that don't mind going in the cell and taking care of business – it's like a hit man." Ward said it worked like this: The warden would enter a cell block to "counsel" a troublesome inmate. Sometimes the colonel would accompany him. "And as he's walking out, he'd say, 'Sarge', real loud, in a distinct voice, and he'd wink at you," said Ward, who is facing a misdemeanor battery charge for alleged inmate abuse. "That was your green light to take care of business. That means you slap 'em around."

In the wake of an ongoing criminal investigation into allegations that guards at Florida State Prison fatally beat death row inmate Frank Valdes this summer, Department of Corrections Secretary

Michael Moore has announced a series of reforms designed to better detect and prevent abuse. Nevertheless, he has repeatedly assured state lawmakers that the Valdes incident was an "aberration."

But interviews with current and former guards from prisons around the state suggest that the real aberration is that Valdes died.

In a rare series of disclosures that pierce the wall of silence, these guards say that in at least some Florida prisons, excessive and unprovoked violence is a tool used by some guards to remind inmates who is in charge. Prison wardens or top officers openly condone or at least ignore the abuse, these guards say, and officers who go along are rewarded, while those who refuse or decide to reveal the abuse find their careers at a standstill or worse.

Earlier this month, the *St. Petersburg Times* disclosed evidence of racism among guards at several Florida prisons. The Department of Corrections launched an investigation into a clique of white guards at Lancaster Correctional Institution who wear knotted key chains to allegedly signify that they are willing to cover up improper use of force on inmates.

Debbie Stephenson, a nine-year veteran officer at Lancaster who two years ago led an effort to win a regional pay raise from the Legislature, said she estimates that a group of officers she calls "the goon squad" uses improper force about 25 percent of the time. She explained her decision to speak out this way: "A lot of us are going to get our ass-whipped because the good ol' boys are out there doing this," she said. "Until we the good people say we ain't going to let you do this no more, I see us going in a worse direction."

From Ward's perspective, being a "catchdog" had a lot of plusses. It meant good days off and the best shifts. Until recently, he says it meant inmate abuse allegations disappeared.

From 1992 to 1998, Ward was investigated for inmate abuse and cleared at least 26 times. Only once, in 1993, was an abuse case substantiated. He kept his job then, and he kept it again after a 1996 investigation found he threatened another officer who reported an inmate's abuse allegation. Ward admitted telling her that if she ever "snitched him out they were going to have a parking lot call-out."

Ward said he made sure that abuse was kept off the books. When "taking care of business," he said, he rarely bothered to follow department policy by filling out use-of-force reports. He said he personally shredded inmate grievances and watched others do the same. He knew how to cover his tracks.

"You don't go in there and start kicking him with your HiTec boots and leave marks," Ward said.

But late last year, something changed. Ward said Warden Henry Alford started getting heat from Department of Corrections officials in Tallahassee: From June 1997 to June 1998, only six other prisons out of 58 statewide had more abuse allegations than Gulf.

Suddenly, Ward found himself more thoroughly investigated. He quit in December 1998, and now faces a misdemeanor battery charge based on allegations that he and another officer punched and kicked an inmate while forcing him to crawl on the floor and bark like a dog.

He is angry at the turn of events. "Your superiors tell you to do it," he said. "But when something happens, you are on your own."

Alford referred all questions to Department of Corrections spokesman C.J. Drake. "He said, 'I've never been involved in anything remotely to do with inmate abuse - I don't condone that,'" Drake said.

But Charles Eford, a former Gulf Correctional Institute inmate who now lives in Tampa, said Alford knew full well what was going on. Eford is one of the men Ward said he roughed up at the warden's behest. Eford reported the abuse, but Ward said, "I wasn't even questioned about it."

Eford independently confirmed the names of the men who guards privately said make up the prison's "hit squad." He said that Alford would pay visits to inmates such as himself who complained about abuse by Ward or one of the squad's other members.

"He'd say, 'Boy, you writin' grievances against my officers? You gonna stop writin' grievances, and if you do it again, we're gonna gas your ass,'" said Eford, 29, who served time for drug and aggravated battery charges. "Ain't no way he couldn't know what was going on. He participated in it."

Each year, thousands of men and women train to become corrections officers. They are taught that inmates are human, that force is to be used against them only when necessary and that it should be truthfully documented.

Then they get their first job. They are paid a minimum of \$23,024, and they learn that the unwritten code of silence is part of being a prison guard.

Ward, hired in 1988, described how other guards would indoctrinate newcomers: "I've been around where, especially a new person, they'd say, 'You're seeing it, but you're not seeing it, and if you know what's best you won't say nothing.' Some were

They are paid a minimum of \$23,024, and they learn that the unwritten code of silence is part of being a prison guard.

skittish, but they were between a rock and a hard place because they didn't want to be labeled a snitch."

Gulf isn't the only prison where officers feel this way. At Brevard Correctional Institution, former Officer Cynthia Holcomb said sergeants ordered her to embellish disciplinary reports "so they would fly." She said she saw members of the "goon squad" take inmates to a building called "Complex 2." When they emerged, she said, it was clear the inmates had been beaten.

"These guys would brag about it," said Holcomb, who quit in June after a prison investigation found that she was having a personal relationship with an inmate at another institution.

Holcomb remembers one inmate in particular. She said Kristian Mitri was hurt so badly he had blood in his urine, but a nurse told him to "change his story" when he alleged guards beat him. Mitri, who is serving a two-year auto theft sentence at Avon Park Correctional Institution, confirmed Holcomb's account in a letter to the Times, and said he was threatened until he agreed to say he had lied.

James E. Cooke, a former corrections officer at Charlotte Correctional Institution, said chronic staff shortages and the inherent stresses of prison work can push people into abuse. "We had an area at Charlotte where the grass was real high and the mosquitoes were real bad," said Cooke, who resigned after allegedly participating in a cross-burning at the prison in 1993. "We'd strip an inmate down to his shorts and put him out there to swat mosquitoes for a few hours."

In 1998, ten Charlotte officers were indicted on federal civil rights charges for allegedly beating a handcuffed inmate. Inmate John Allen Edwards later committed suicide. Seven of the officers eventually were acquitted and three took plea bargains.

Diary of A Corrections Officer

By ADAM C. SMITH

Capt. Willie Hogan worked as a guard at Lancaster Correctional Institution for 20 years. Hogan gave the St. Petersburg Times a copy of a diary he kept to chronicle the abuses he witnessed.

"(A prison nurse) related ... that inmate was beaten so badly that his tooth was knocked out, kicked in the kidneys until he was urinating blood and kicked in the groin."

Inmates told him about being slammed against walls or having their genitals doused with Mace while isolated in confinement. They complained of racial slurs or harassment. They often told him officers would step up their mistreatment when Hogan was off duty.

There's a saying among prison officers: Do your eight and hit the gate.

In other words, finish your shift and forget the cesspool at work as you pass through the razor wire to go home. Otherwise, the job will eat you up.

Capt. Hogan, a veteran officer with a spotless record and stubborn sense of right and wrong, couldn't follow that advice.

He spent the final years of his life trying to drink away and write away the dark world of punishment in which he worked. He kept a private, detailed journal chronicling the abuse, racism, and cover-ups he said were rampant behind bars.

Hogan planned to retire in 2004, after he hit 25 years with the Department of Corrections. But on his 43rd birthday, Hogan collapsed and died inside his grandmother's Gilchrist County home. Cause of death: cirrhosis of the liver.

"Capt. Hogan was sharp as a whip, but none of the white officers wanted to take orders from a black officer, and it was hard for him to do his job," said Dennis Douglas, a former Lancaster officer who is white.

This story is excerpted from "Dying Inside," originally published by the St. Petersburg Times on May 6, 2001.

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Violence by officers has subsided since the Edwards death, but until then it was common, said Sgt. Paul Patton, an officer at Charlotte since 1992. Edwards "was just an unlucky that died," said Patton, noting that even by-the-book officers rarely report wrongdoing by fellow guards.

"How do you report that kind of thing? You depend on these people to protect you. You're working in a very dangerous place, and you need to know people will back you up when you need it. The guys that do report these things, they're shunned like they have leprosy."

Sgt. Barbara Hodge agrees. Although she said she has never personally witnessed abuse at Lancaster, she said she is known as someone who "won't falsify anything."

She decided to speak out even though she fears that retribution can take many forms. "The other day, three sergeants were supposed to be feeding the inmates," Hodge recalled. "They left me at the chow all alone with 500 inmates."

Stephenson, Hodge's colleague at Lancaster, recently found out the price of speaking up at the Gilchrist County prison. In September, she and Officer Nadine Broughton turned in two of their colleagues for tackling an inmate and striking him on the side of the head.

To date, she said nothing has happened to the officers who allegedly struck the inmate. But someone sent an anonymous e-mail to an underground corrections web site calling Broughton and Stephenson "nothing but down right out cowards and liars." Copies of the e-mail were then passed around the prison, Stephenson said. Now, Broughton and Stephenson have been asked to take polygraph tests.

"The colonel, the major, the captain - they all know who their gung ho officers are, and when I say gung ho, I mean you don't give a s-- who you knock the s-- out of," Stephenson said. "They'll have the good positions and have the most numbers of use of force. The high-up people control it all."

C.J. Drake, the department's spokesman, said that if a corrections officer witnesses misconduct, "that officer has an obligation to report it, not to the press, but to the authorities. If they fail to do that, they are violating department rules."

But proving abuse can often seem an exercise in futility, which is another reason officers say they are reluctant to talk.

Last year, a series of memos shows that the warden, a prison inspector, and the department's inspector general all were troubled by the high number of abuse allegations at North Florida

Reception Center. Prison officials even wrote to the state attorney, asking for help. The request was declined. One of the solutions then offered by Inspector General Fred Schuknecht was to transfer “known thumpers” to other prisons.

This year, North Florida inmate John Russell claimed three sergeants took him into a room and hit him until his nose bled. The officers denied taking Russell into the room.

When traces of blood were found on the wall, the warden and inspector requested that the state’s crime lab do a DNA test. The blood matched Russell’s. Russell, however, failed a polygraph when he was asked if all three officers hit him.

Warren Holmes, the former president of the Florida Polygraph Association and an expert who lectured at the CIA, said the question was phrased in such a way that Russell couldn’t help but fail. “You can’t ask multiple names in one question—that’s absurd,” Holmes said.

Nevertheless, the inspector general’s office

cleared the three officers in May. Schuknecht, who heads all department investigations, said the blood on the wall could have been months old. The department, he said, often finds itself in a Catch-22: without officers who are willing to testify, abuse cases can be very difficult to prove.

The agency has taken several steps that will help, Schuknecht said. Front-line prison investigators no longer report to individual wardens. The agency is in the process of mounting cameras in prisons throughout the state.

Still, Schuknecht said officers need to trust that the department will follow up if they come forward.

“The employees you are talking to about this perhaps are discouraged by actions that have been taken in the past,” he said. “But they need to know that this administration will investigate any allegation of abuse made by anyone.”

St. Petersburg Times staff writer Adam C. Smith and researcher Caryn Baird contributed to this report.

UPDATE: THE STORY TODAY

Since this article was published, dozens of African-American corrections officers have come forward attesting to the torture of inmates and discriminatory treatment of guards who refuse to cover up abuse.

On May 6, the *Times* published the diary of a corrections officer, Capt. Willie Hogan, who died of liver disease from the effects of alcoholism at the age of 43. Hogan, a 20-year veteran of the Department of Corrections, had become isolated and demoralized from witnessing the brutal treatment of prisoners at Lancaster Correctional Institute. One entry in his diary told that an “inmate was beaten so badly his tooth was knocked out, kicked in the kidneys until he was urinating blood and kicked in the groin.”

Earlier this year dozens of black corrections officers filed a federal class-action lawsuit against the Florida Department of Corrections charging systematic discrimination. One guard, Sgt. Roosevelt Paige, testified in a deposition that he was punished by white guards for not going along with the regime of brutality. He said he was left alone in the North Florida Receptions Center prison yard with 500 to 600 inmates while white guards

slept. Other plaintiffs told of “KKK” graffiti being used to intimidate them.

The testimony of these whistleblowers sparked a group of black Florida lawmakers to break from their legislative schedule to visit North Florida Reception and two other prisons. Sen. Betty Holzendorf, (D-Jacksonville) said that black guards “appear to be fearful for their lives and fearful for their security.”

The Florida NAACP, whose vigorous voter registration drive was thwarted last year by election irregularities and intimidation at the polls, filed a court order for Corrections to “stop the imminent infliction of irreparable injuries.”

In response, Corrections Secretary Michael Moore promised an internal investigation, but warned, “We are not polarizing the employees at these institutions because the offenders will manipulate the environment.”

Not surprisingly, the Florida Department of Corrections has cleared itself of all wrongdoing. On August 28, Moore concluded that the allegations of discrimination were “anecdotal” and lacked sufficient evidence to merit state action.

- Jordan Green

*First Prize
Investigative
Reporting
Division Two*

Dying behind bars

**In Chatham County, Georgia,
inmates' families protest privatized health care**

By Leonora LaPeter

Savannah Morning News

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In "Dying Behind Bars," Leonora LaPeter of the Savannah Morning News uncovered the troubling shortcomings of privatized health care in the county's jails. The series made a solid link between the poor quality of medical care and privatization, showing that inmates' health had been sacrificed for low costs and higher profits – with little regulation or oversight.

Ronald Smith hanged himself with a bed sheet. James Scott's life ended because of a duodenal ulcer. And Alfonzo Roberson died either of an aneurysm or a blood clot, although experts can't agree.

All three were one time inmates at the Chatham County, Georgia Sheriff's Complex. Their families blame inadequate medical care at the jail for the loss of their loved ones. They filed wrongful death lawsuits against the county and the private company – Prison Health Services (PHS) – that provides health care at the jail.

"Why didn't they listen to him and give him medical assistance?" asked Lula Roberson, Alfonzo Roberson's grandmother, a year after the 19-year-old became sick in his jail cell and died. "Don't let them just lay there and die like an animal without just listening to them."

But county commissioners didn't talk about these lawsuits once during a yearlong public discussion of who should provide health care at the jail. The county asked for bids last summer as the end of PHS's contract approached.

In fact, county officials said they were happy with the service provided by the for-profit, publicly-traded PHS, one of the two largest private correctional health care companies in the country. They only chose a smaller private company, Correctional Healthcare Services (CHS), because it was the low bidder. (The county and the two companies are currently in court to decide whether the selection was proper.)

But these lawsuits and others around the country question whether proper health care for prisoners also should be at issue when private companies are considered. Consider that PHS, the current provider, has been the subject of more than 20 federal lawsuits by inmates in the past five years in southern Georgia alone. Some of those lawsuits came from inmates in the state prison system, a contract that PHS lost in 1997 after a year and a half on the job.

Inmate medical lawsuits against the county jail

range in seriousness from an inmate's contention that inadequate care left him with a permanent shoulder injury to another's complaint that he wasn't being supplied enough colostomy bags.

Jean Byassee, general counsel for the Tennessee-based company, said she is not surprised by the large volume of lawsuits. "These folks have a good familiarity with the justice system, they may have access to a law library and a lot of time on their hands," Byassee said. "And they're the only folks in America guaranteed health care. So a lot of factors contribute to us getting a lot of lawsuits."

PHS is the subject of multiple lawsuits across the country. Inmates and their families have sued the company a number of times for inadequate medical care, including deaths and injuries they say could have been prevented. The smaller CHS also has been named in a number of claims, including a class-action lawsuit filed last April in Fulton County, alleging the company neglected its AIDS-infected inmates and contributed to a public health crisis.

Health care is one area where inmates are the most vulnerable. Those who end up in jail tend to be sicker than average but less inclined to seek medical care, experts say.

As more and more jails opt out of the health care business and turn to these private managed care companies for inmate health care, those who represent the interests of inmates worry that the companies' need to make a profit will come at the expense of inmates.

The trend comes at a time when overcrowded prisons and jails strain to provide the most basic services to inmates. "I have to say that the idea that health care is going to the lowest bidder doesn't make those of us who are not in jail comfortable," said Debbie Seagraves, executive director of the American Civil Liberties Union in Atlanta. "Certainly because someone is in jail doesn't mean they deserve to die because of a lack of health care."

Dying in jail

At 17, Ronald Smith had problems. He suffered from dyslexia and an "organic mental disorder" that left him with a mental disability, court documents show. He attended a rehabilitation center in the mountains of western Virginia and sought training in auto body work.

But in October 1995, a staff member at the center found a tin can fashioned into a marijuana pipe in his dorm room. He blamed it on his roommate, but both boys were suspended. Then Smith and a friend broke into Smith's grandparents' house and took two pistols that supposedly belonged to Smith. They went to the other boy's mountain cabin and shot the pistols.

The break-in drew the attention of police. So Smith and his friend hid the pistols, hot-wired a car, and headed for Florida, where the other boy had family. Smith called his mother several times as he headed south on the highway and she, in turn, called the highway patrol. Smith was apprehended in Chatham County and placed in the county jail. His cohort, a 16-year-old, ended up in the county's juvenile facility.

During an admission interview with a PHS nurse, Smith said he had considered shooting himself three days prior to his arrest. According to legal documents filed in U.S. District Court, those words should have provided Smith with mental health attention.

Instead, the intake form was lost. The PHS nurse said he gave the form to the booking desk. The sergeant there said he never received it. So Smith was moved to the general population. A day later, Smith was placed on cell restriction after another prisoner mistakenly told jail officials he thought he'd testified against Smith's brother.

Smith spoke with his mother, who was trying to get her car fixed to come to Savannah. He told her he was depressed and could not live in jail. Smith's mother, Sharon Ann Clark, called a mental health counselor at the jail and left messages expressing concern about her son.

On November 15, 1996, Smith inquired four times why he was on lockdown, but could not get an answer. Later that morning, officers found him hanging from a bed sheet that had been wrapped around a vent over the toilet in his cell.

Jail officials conducted an internal investigation and determined that no procedures had been violated during Smith's incarceration. Still, the county has filed a cross-claim against PHS, alleging that the health care company's workers failed to notify the county about Smith's condition.

County jail officials say that the lockdown was to

protect Smith, not punish him, court documents show. They said he was able to call both his mother and aunt a number of times, and he was checked regularly by corrections officers, who had no knowledge that he posed a risk to himself.

But Smith's mother, Clark, and her lawyer, Eugene Brooks, view it differently. Although federal court rules bar them from discussing the case while it is pending, legal documents outline a \$2 million claim that officials at the jail were both negligent and deliberately indifferent to Smith's needs.

They accuse the jail and its health care workers of failing to follow its own policies or train its personnel properly. They say Smith did not get the mental health treatment that he should have gotten immediately.

But Brooks, the lawyer, has a tough road ahead of him. The Supreme Court ruled in a 1976 case that inmates have a constitutional right to medical care, but they must show that jail officials were "deliberately indifferent" to a serious medical need.

Brooks believes the higher standard is unfair. It's hard to prove that jail workers deliberately failed to care for inmates, because those who have all the information that might corroborate the claim have a vested interest in making sure that inmates and their lawyers don't have access to it. "You can get bad care in prison and it's fine, and I'm not sure if that's appropriate," Brooks said.

Prisons, privatization, and concerns grow

More than 2 million people are now incarcerated across the United States, a 500 percent increase in the last 25 years. Prison experts say no wonder medical care standards have plummeted.

But conditions are nothing like they were in the early part of this century, when prisoners were used in medical experiments and even subjected to torture.

In the 1970s, more attention was focused on prison conditions. The American Medical Association developed standards for health care that eventually spun off into an organization known as the National Commission on Correctional Health Care. Today, it accredits jails and prisons on a voluntary basis for a fee.

A 1976 Supreme Court decision in the case of a Texas inmate with back problems further set the standards. Prisons and jails were required constitutionally to provide adequate medical care.

Enter the private correctional managed care companies. They offered states and local governments a cheaper alternative at a time when diseases became more complicated and prison medical costs skyrocketed. Industry analysts say

these companies now represent some 25 percent of the \$3.75 billion spent nationwide on correctional health care.

Chatham County's jail hired its own medical staff until 1992, when it awarded a contract to Prison Health Services. Jail officials say it has saved them thousands of dollars and makes sense for the prisoners too.

"For me to go out and hire nurses and manage nurses, I don't have that kind of training or ability," said Gary Blake, then the jail's administrator. "We're much better off getting professionals to provide those services."

But some question whether privatized health care is the way to go. The companies may offer to do it better, but they actually may skimp on staffing and services, leaving inmates vulnerable, prison experts said.

"Everybody's fear in this area is that there will be lessened accountability somehow and because services are for profit, prisoners will be in some sense neglected in order to increase profit margins," said Craig Haney, a professor of psychology and law at the University of California at Santa Cruz. "I think there's evidence of it happening and evidence of it not happening in other cases."

Haney and others are concerned the private companies will come in and initially provide a high standard of care but later begin cost-cutting practices that maximize profit but harm inmates.

"There's a built-in conflict of interest because the private health care provider is trying to make as much money as it can for its stockholders," said Stephen Bright, director of the Southern Center for Human Rights in Atlanta. "So if inmates need something, the temptation is to not give them expensive medicine because it cuts into profit."

Experts who study prisons said other factors contribute to inmates not always receiving the best of care: Salaries for prison medical workers are low, so the field sometimes attracts more unqualified personnel; Working in prisons is no easy task; Correctional health care workers can become hardened and distrustful of inmates. Some even begin to think that all inmates with health problems are lying get out of work or to get access to drugs.

"That kind of callousness and inability to separate a true illness from a not-so-serious illness is what gets health care people in trouble," said Michael S. Vaughn, an associate professor of criminal justice at Georgia State University. "Pretty soon everyone they see is a dirt bag or scum bag – the whole class of people is bad. They paint them all with a big, broad brush." This stereotyping can be understandable, Vaughn said, but health care workers should make

an effort to be the compassionate side of prison life.

Private companies that provide the care maintain they do provide good care. At the Chatham County jail, for instance, PHS officials say they have kept the jail accredited with National Commission on Correctional Health Care since they arrived in 1992. Jail and PHS officials said this accreditation is proof that the county jail offers adequate medical care.

The National Commission on Correctional Health Care sends a survey team into a prison or jail only at the request of officials who run the facilities. It accredits 500 of the 3,000 jails and prisons across the country. It was last at Chatham County's jail in 1996 and is due to visit it this year.

Georgia chooses to provide no state oversight.

But Robert Cullen, an Atlanta lawyer who has represented thousands of inmates in civil rights litigation during the last two decades, said many of the accreditations are not worth the paper they are written on. "In several cases in Florida, Georgia and Alabama, I've seen places accredited by them and then within days or a couple of weeks, a judge would enter an order finding the health care provided was unconstitutional," said Cullen, who has also served as a court-appointed monitor in Florida prisons.

Edward Harrison, president of the accreditation group, pointed out that deaths occur in jail just as medical malpractice occurs in the free world. An entire industry shouldn't be condemned, he said, for the actions of the few. "Our accreditations are very valuable...and have been used to make improvements to jail health care hundreds and hundreds of times," Harrison said. "It makes a very positive difference."

The accreditation team that surveyed the Chatham County jail in 1996 found the jail's clinic well equipped and organized. It found the facility up to snuff on more than three dozen of its standards, but it knocked the jail on a few standards related to health assessments, medical records, and mental health evaluations.

"The surveyors found at least half of the mental health evaluations were not completed, routinely missing important observations of the inmate that would help to identify certain critical situations such as depression," the report said.

The national organization does not require a minimum staffing level at the jail, although it will consider staffing if problems surface, Harrison said.

Staffing a key

Alfonzo Roberson had headaches. Bad ones. And lots of them. He asked for headache medicine at least seven times, and possibly as many as ten times,

during his nearly three-month stay at the Chatham County jail in the late summer and fall of 1997.

In jail on charges of forgery and theft by receiving stolen property, Roberson received Tylenol five times. He asked for stronger medication on a number of occasions, specifying Motrin on a medical request form. His last two requests for headache medicine were never filled.

He died October 21, 1997, possibly of an aneurysm, although his exact cause of death is disputed in court documents. He had lost 10 pounds but only saw a physician's assistant once – during a routine exam done 54 days after he entered the jail. Prison Health Services' policies require a routine exam within 14 days.

"I need some Motrin for migraine headaches because the other pill don't work," Roberson wrote, time after time.

Lula Roberson, Roberson's 64-year-old grandmother, realizes her grandson wasn't perfect. He left school without graduating, worked odd jobs and seemed to be hanging out with the wrong crowd. If he did wrong, as police said he did, he deserved to be in jail, she said. But he didn't deserve to die there. "It seems like they could have taken him to the infirmary if he was constantly asking for aspirin," she said. "For what reason did he need aspirin, a healthy young man?"

Roberson's daughter, Lorraine, and his father, Nash Mitchell, have sued the jail and Prison Health Services. They could not comment because the lawsuit is still pending in federal court.

Their lawyer, Sage Brown, argues in court documents the jail's health care was below standard. Roberson's vital signs should have been checked when he sought headache medication that many times, and he should have been referred to a doctor.

At least one medical expert hired by Brown contends Roberson probably suffered from hypertension that enlarged an existing aneurysm, causing his numerous headaches and his death.

In court documents, Brown maintains PHS's custom of providing medical care at the lowest possible cost deprived him of adequate medical care and ultimately his life.

They have submitted a report by an independent correctional health care consultant, Jacqueline Moore, that says PHS staff continuously violated its own policies by failing to provide medical care to Roberson. Moore pointed out that some nurses expressed concern that they did not have enough time to care for all the inmates. And the onsite PHS administrator said in a deposition that she had been told to reduce health care costs at the facility by 5 percent at a time when the number of inmates was

increasing, Moore's report said.

Moore knew something of what she was talking about. She helped found the very company she was writing about, Prison Health Services, developing it as the first contractual correctional health care company in the United States, according to her resume. She left the company after a decade in 1988 and went on to work for other correctional health care companies in high-ranking positions.

But PHS officials maintain in court documents that Roberson was treated properly and had "untrammeled access to PHS." They point out that they responded to each of his requests by providing headache medicine, and the last two requests would have been carried out if he hadn't died. Never did Roberson ask to see a doctor. If he had, he would have seen one.

Roberson's family could not show the county or jail workers did anything wrong, they said. "We've never had a death because of medical care," said Blake, the jail administrator. "Our contention is that the people receive excellent medical care."

Lawsuits and principles

Eleven people have died at the Chatham County Sheriff's Complex since it opened in 1993. Blake said an internal review showed jail officials and PHS staff acted appropriately before and during each of the deaths.

Still, the three inmates' families, who have filed lawsuits, believe otherwise. None has won so far in court. Despite hundreds of inmate lawsuits filed in Georgia against the company, Mark Trigg, PHS's lawyer in Georgia, said the company has not lost any in the four years he's represented it. He said 95 percent of the cases are filed by inmates who handwrite their complaints, and judges dismiss them most of the time as frivolous.

The only case Trigg has seen go to trial in Georgia was filed by the family of an inmate who died at Chatham County's jail. James Scott died of a duodenal ulcer after being moved from the Chatham County jail to the Coastal Correctional Institute in Garden City in June 1994.

In jail on a violation of probation charge for burglary, Scott, 38, had diabetes and complained of weakness, fainting, dehydration, weight loss, and poor appetite, according to court documents.

He repeatedly requested medical care from jail officials. They repeatedly denied it, according to the lawsuit filed by his mother, Mary E. Henderson. Other inmates became so concerned for Scott that they sought assistance for him.

On May 31, 1994, the jail's medical staff examined Scott and found him weak but allowed him to be

UPDATE: THE STORY TODAY

Prison Health Services (PHS) is again the healthcare contractor at Chatham County jail. A superior court judge in Savannah decided that the County Commissioners had the authority to choose the provider — and they chose the smaller Correctional Healthcare Services (CHS). But then, last January, according to Col. McArthur Holmes, the jail administrator who replaced Gary Blake, CHS requested more money to operate and the commissioners reverted the contract back to PHS.

Along with its privatized healthcare services,

security at the jail has also come under scrutiny. Last July, inmate Michael Kelly Deal, a former police officer, was found dead, hanging from the ceiling of his cell by a bed sheet. Apparently, a group of inmates feared he might reveal their plan to chisel their way out of custody.

Last year the National Commission on Correctional Health Care conducted a site visit to the jail, which is 170 inmates over capacity, and renewed its accreditation.

- Jordan Green

transferred to the state prison, the suit says.

Lawyers for Scott's mother contended he died from "a treatable illness and suffered a preventable death."

Trigg said Henderson's claims were frivolous, and the jury agreed. "The evidence didn't support that allegation at all," Trigg said. "There was evidence that he received medical care whenever necessary, and he was seen by a nurse on a frequent basis."

A federal jury found Prison Health Services and the county not responsible for Scott's death. Henderson did reach a settlement with Correctional Medical Services, medical provider at the state prison when Scott died, as well as a doctor who treated Scott there.

In a recent interview, Henderson said it wasn't about the money. Even though she lost one case and settled the other, she hopes her wrongful death lawsuit highlighted conditions at the Chatham County jail and state prison.

"It was the principle, because money can't bring him back and I loved him dearly," said Henderson, 65. "They need to do something about the neglect of the inmates and

give them more medical attention and reliable doctors.

"Even though they may have committed a crime, they are still humans and still have rights to medical services," she added. "And they didn't always do something wrong. They did something right in their lives."

AED Announces Call for Grant Applications

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Disabling the Disabled

**How insurance companies
are restricting the freedom
of TennCare patients**

by Eileen Loh-Harrist
Memphis Flyer



Eileen Loh-Harrist's story for the Memphis Flyer exposes how TennCare, Tennessee's experiment with Medicaid, forced thousands of disabled recipients into restrictive nursing homes – and how the nursing home industry sold the state legislature on this plan by contributing to political campaigns.

Richard Peyton is 29 years old. Like most young men, he has goals for his future. He wants to enter State Technical Institute at Memphis and study computer programming. He'd like to graduate, get a job and an apartment, forge a life for himself. But he can't.

Peyton, a paraplegic, lived with his parents until they both died in 1995. Then he had to rely upon the state's TennCare program for help with his day-to-day care. TennCare gave him one option: to live in a nursing home and submit to federal Medicaid requirements governing those facilities.

That means Peyton can't leave the place more than 16 days out of the year – and in Medicaid terms, eight hours equals one day. He could take one, maybe two, college courses per semester, but since he can't spend too many hours outside the nursing home, forget about study sessions at the library or computer lab. Forget about spontaneous plans to see a movie, visit a friend, hang out at a coffee shop. If he's not back to the nursing home in time, that's a free day he's wasted.

And forget about having overnight visitors. Peyton, who has lived in four nursing homes over four years, got kicked out of his previous residence after a girlfriend spent the night.

"I guess you could say I'm the bad boy of the group," Peyton says with a sheepish grin, glancing around at some of his friends at the Memphis Center for Independent Living, an advocacy center for the disabled.

Peyton's situation is far from unique. Across Tennessee, thousands of disabled TennCare recipients, of all ages, live in nursing homes because they have no other choice.

Other states offer assisted-living services that let the disabled remain in their own homes, with visits by caregivers to help them with bathing, dressing, grooming, sometimes meal preparation, or housekeeping. Some provide medical care.

Though disabled TennCare recipients have a wide range of needs, the state, overwhelmingly, has just one solution: nursing homes. The state is 49th in the nation in its attention to assisted-living services, called "home health," "home-

base" or "custodial" care.

For individuals like Peyton and his friend Willie Robinson, 47, life in a nursing home isn't much of a life at all.

Robinson was disabled in a 1971 car wreck, but that didn't slow him down. He took classes at the University of Memphis, receiving his master's degree in special education and rehabilitative counseling. He had a good job at Shelby State Community College as coordinator of disabled students' services, a position he created. He had his own home and drove a specially equipped van.

But in 1996, Robinson had a muscle spasm while driving, crashing the van and breaking both hips and a leg. Complications from those injuries led to a stroke. Now he requires more extensive care than before. But the state won't pay for home assistance, so Robinson is in a nursing home now.

"My living conditions are totally out of my control," he says. "I have no control over what time I get up in the morning. I have no control over what I eat for breakfast, lunch, dinner. I have no control over what time I go to bed."

Robinson had to abandon his job since Medicaid nursing-home regulations don't allow him to work. Nor do they let patients maintain assets such as vehicles or houses.

"Even when I was a quadriplegic, I lived in my own home, I had my own job, I was able to take care of my business affairs," he says. "After I had the stroke, I was pretty much unable to take care of my activities of daily living."

He'd like to become independent again, but he can't even get a motorized wheelchair and must depend on others to push him around.

His friend Melvin Douglas is in a similar situation. "I've been to three [nursing homes] in a decade, and I'm just regaining a lot of my self-confidence, my credibility, and other things," says Douglas, 40.

That's not easy, he emphasizes, "when you have all these things taken away from you, and you have to depend on nursing-home people for everything.

"All three of us are disabled persons who are trying to seek our independence," says Douglas,

who misses the little freedoms of life. "Some of the simplest things that you take for granted," he says. "Sometimes people just want to go outside, get some fresh air or something, and the staff ... won't stop what they're doing."

All this could be changed along two different avenues on the state level. One, Tennessee could allocate more money for home-based care, but the trend has long been for legislators to pump available funds into the nursing-home system. Advocates blame politicians – in particular, Gov. Don Sundquist – who have received large campaign contributions from the nursing-home industry.

The second is TennCare itself. A lawsuit pending in U.S. District Court in Nashville charges that TennCare crafted its policy under pressure from its service providers, so they wouldn't have to pay for home-based care. Advocates claim Tennessee is violating the federal Americans with Disabilities Act, which seeks "to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for [disabled] individuals."

Peyton, Robinson, and Douglas say they speak for thousands of disabled Tennesseans who simply want the freedom to live outside an institution. "Nursing homes have their place for a person who may not be of sound mind and health," Robinson says, "but not for persons like we three, who are of sound mind and health, who can make our own decisions – and the only thing we need is some helping hands."

The money trail

Rep. John Arriola (D-Nashville) has been trying to persuade other legislators to steer money appropriated for long-term care out of the nursing homes and into home health services. "Absolutely, the nursing-home lobby has friends in high places," he says. "That is affecting the ultimate decisions by our leadership."

This year's state budget originally allotted about \$11 million for home-based care, and that would have generated nearly \$20 million in matching Medicaid funds. At the time, advocates for the elderly and disabled grumbled it wasn't enough – but it was, at least, a start.

But the money never came through. In final budget structuring, that allocation was cut. Nursing homes, however, quietly received the same \$672 million they received last year, plus a 5 percent increase, for a total of \$705.6 million, according to the state auditor's office.

Tennessee does have a few assisted-living

waiver programs, one of which serves about 400 people in Shelby County. Those programs received almost \$8 million this year.

"There should be a sharing of the existing long-term-care dollars," Arriola says. "If the nursing homes are going to get a raise every year, why shouldn't that be shared with giving people the option to stay at home?" he asks. "The nursing homes got the dollars. We were just asking for \$11 million, so essentially they picked up what we were trying to get, and then some."

Many point to the powerful nursing-home lobby, which has been generous to the campaigns of key state legislators. In fact, the largest corporate contributor during Tennessee's 1998 election cycle was the Murfreesboro-based nursing-home chain National Health Corporation, which gave more than \$50,000 in campaign money.

Sundquist received \$15,000 from that organization in 1997, campaign finance records show. The governor was also given \$19,000 during 1996 and 1997 from the Tennessee Health Care Association PAC, a trade group representing 90 percent of Tennessee's nursing homes. The two groups are among Sundquist's top 20 contributors.

Sundquist also received \$20,000 in 1996 and 1997 from Parsons, Tennessee, nursing-home mogul James Ayers and his wife, Sharon. Until last year, Ayers was the dominating force behind American Health Centers Inc., which owns 33 Tennessee nursing homes.

The Commercial Appeal has reported that between 1993 and 1998, nursing-home interests gave Sundquist at least \$117,750.

Sundquist's spokeswoman, Alexia Levison, deflects accusations that Sundquist favors the nursing-home industry. "The governor has said in many instances, whenever he's criticized about campaign money and who he feels obligated to, that campaign contributions never shape his policy," Levison says.

"He thinks [home health care] is important, but he also thinks that form of care – nursing-home care – is important as well, and it's just making choices. In a tight budget year, there are many tough decisions," Levison says. "He doesn't feel obligated to specific constituents or specific groups."

Arriola believes otherwise. "The fact that he gets a lot of money from nursing homes – there are some assumptions that people are going to make when they look at that," he says. "You look at one's actions, and one's actions speak louder than one's words."

But more and more people are becoming aware

of the situation, he reports. "It's just amazing, the support we've been gaining," Arriola says. "You see the injustice in the state putting all its money into one pot. It's going into one area, which are the nursing homes."

Life in an institution

The Americans with Disabilities Act requires that public entities provide "the most integrated setting appropriate to the needs of qualified individuals with disabilities."

If that were followed in Tennessee, says Melvin Douglas, he would have been making some personal progress in his thirties, trying to meet goals he'd set as a younger man – before the violent robbery in his late twenties that left him paralyzed from the neck down.

True, he is in a wheelchair now. But Douglas remains intact mentally and emotionally. He just needs some help getting dressed and groomed, preparing his meals.

Instead, Douglas had to spend long years isolated in a Shelby County-run nursing home, sporadically tended by assistants too busy – or unconcerned – to properly care for him.

Indignities abounded. "They put a diaper on me," Douglas recalls. "I sat up in that diaper the entire day."

The neglect grew worse. Once, when a nursing assistant was using a hydraulic lift to move Douglas, she went to answer a phone call and left him hanging in the lift. She returned to find him on the floor, his hip bone poking out of his left buttock.

"From that fall they had to amputate both legs," says Douglas, who spent a year at the Med before transferring to another nursing home. Today he lives in a much better facility, but still considers himself a prisoner of circumstances.

"A nursing home is a nursing home," Douglas says. "I will not be satisfied unless I get my own home."

But that's unlikely to happen, based on TennCare regulations as written now.

A promising beginning

In 1993, the federal government granted Tennessee a Medicaid demonstration waiver, letting the state replace the conventional Medicaid program with its new TennCare pilot program.

In a simple one-line description, the waiver maintained TennCare would offer home health services "as medically necessary." The proposal was implemented in January 1994 for five years (and recently renewed for three).

So why does the state routinely reject thousands of disabled Tennesseans who apply for those services? In one word: greed.

That's according to Gordon Bonnyman, a lawyer for Nashville's Tennessee Justice Center, which filed a federal lawsuit in December against the state Department of Health and its then-commissioner, Nancy Menke.

The class-action suit asserts the department caved in to the demands of one of its service providers, Blue Cross/Blue Shield of Tennessee, rewriting TennCare's policy to ensure that few people would qualify for home health services.

"The state has capitulated to Blue Cross in ways that are costly to the state," Bonnyman says. "They have done that for fear that Blue Cross can't be left unhappy. What Blue Cross wants, Blue Cross needs to get – or else."

Why nursing homes?

The Chattanooga-based Blue Cross is the largest of TennCare's nine managed-care organizations (MCOs), covering about half its beneficiaries.

After losing money in the first two years of the TennCare program, Blue Cross steadily increased its earnings. Last year, the company made \$24.7 million from TennCare, The Chattanooga Times Free Press reported.

TennCare pays each MCO a fixed amount per enrollee. If participants don't need many services, the MCO profits. But it loses money on enrollees who require services exceeding the amount paid by the state.

That's what makes home health care so unattractive to MCOs, Bonnyman says: it's long-term. Most of the beneficiaries are not sick people who might recover. They're disabled and will need ongoing services for the rest of their lives.

Enter the nursing-home industry. Nursing homes are excluded from TennCare's contracts. They are paid directly by the state out of its Medicaid budget for long-term care.

Bonnyman's suit claims Blue Cross and other MCOs routinely deny custodial services while steering participants into nursing homes, thus shifting the costs to Tennessee's Medicaid nursing-home budget.

"It's clear that the dollars saved by the MCOs, if there are any, are at the expense of the state, since we pay the nursing homes directly," Bonnyman says. "This is an area where it's clearly bad for everybody except the MCOs and the nursing homes."

For "Level 1" care, the state pays nursing homes approximately \$33,000 annually per patient. For

more skilled "Level 2" care, Tennessee pays about \$54,341 per patient. Home health care varies in cost, depending upon the patient's needs, but in many cases it is indisputably cheaper than institutionalization.

A planning council from Sundquist's administration hired a consultant earlier this year to estimate the costs of home health care. The consultant's original \$18,000-per-person figure was challenged by advocacy groups who called it overinflated. The estimated cost was then revised to \$6,000 annually per person.

"Let people pay for their own room and board," Bonnyman says, "and if they have family that they're living with, they don't even need the [maximum] level of social services."

He believes Blue Cross threatened to quit the TennCare program unless Tennessee changed its policy on home health care. "The state should have said something to the effect of, 'We feel your pain, but you're making money, you're doing okay, and you agreed when you signed this contract this was the service you would provide. So you need to quit your crying. Get over it,'" Bonnyman says.

A question of policy

The conflict began in earnest in April 1997, when Blue Cross asked the state if it could add more restrictions to TennCare's home health services policy. The Health Department granted the request-without seeking or obtaining federal approval, Bonnyman's lawsuit claims.

Bonnyman believes state officials were cowed by Blue Cross' overwhelming presence in TennCare. "Obviously, TennCare could not exist in anything like its present form without Blue Cross participation," he says, "and I think that's what does a number on state officials, and intimidates them."

The main sticking point was Blue Cross' requirement that custodial-care recipients be "homebound." "A patient is defined as homebound when he or she leaves the home infrequently, and only then for appointments that are medically necessary," reads Blue Cross' Utilization Review Physicians' Manual. "The patient must be confined to the home because of medical infirmity." That limits the people who do qualify for home health care as to patients with disabilities that can be corrected.

During contract negotiations in June 1998, the lawsuit says, Blue Cross demanded that TennCare change its regulations as soon as possible to conform to Blue Cross policies.

The *Flyer* obtained portions of the health

UPDATE: THE STORY TODAY

Since Eileen Loh-Harrist's story appeared in the *Memphis Flyer* last year, the plight of home-care patients covered under the TennCare system has largely receded from public awareness. The program, which helps insure poor people and low-wage workers who fall outside the net of private employer insurance, has many supporters as well as many detractors.

The issue of homecare has been eclipsed by a political assault on TennCare itself. In November, Federal Judge William J. Haynes, Jr. cleared the way for TennCare to drop 52,000 enrollees in order to cut costs and appease opponents of social spending who are agitating for "reform." 27,000 are set to be dropped because of their inability to pay their premiums while 25,000 will be dropped for holding invalid addresses.

The vulnerability of TennCare is set against the backdrop of a volatile tax debate in the General Assembly last July. The Volunteer State has long resisted instituting an income tax, but legislators on both sides of the aisle were faced with just that in light of severe state budget shortfalls. In response, local talk radio jocks Phil Valentine and Steve Gill — with e-mailed encouragement from

department's response, faxed by then-Commissioner Menke to Blue Cross CEO Tom Kinser, on June 30 and July 1, 1998.

"The State will prepare and move through the process as quickly as possible a rule change," Menke wrote on June 30, "which would clearly define the Home Health Services [as] a covered benefit when prescribed by a physician or primary-care provider as medically necessary for a homebound individual."

Menke defended the proposed change against public outcry, telling legislators that TennCare had never intended to cover long-term care. She explained that the homebound requirement had been TennCare's policy all along, and the state was simply adjusting its rules to conform to long-time practice. "This is not a change in policy," Menke told *The Commercial Appeal* at the time.

The rule change is pending and has not officially been put into place, a technicality the state has used to its legal advantage. In court papers, the state argues it does not unlawfully limit home health care because TennCare's current policy does

Sen. Marsha Blackburn, a representative of the affluent Nashville suburb of Franklin — mobilized throngs of anti-tax protesters who stormed the capitol, breaking windows out of Gov. Don Sundquist's office, and manhandling and verbally abusing legislators on July 12.

In the fallout of the broken glass and bruised feelings from the anti-tax riot, TennCare emerged as a prime sacrificial offering. Unless the program trims its rolls or new funds are allocated, TennCare is projected to overspend its budget by \$37.5 million by June 2002.

Former Nashville mayor Phil Bredesen, a Democrat, has announced his candidacy in the 2002 governor's race. Touting himself as a fiscal conservative, Bredesen pegged TennCare as a program that could be scaled back to allow Tennessee to avoid the income tax. A self-made multi-millionaire who started out in the healthcare industry, he is running under the slogan, "Manage, don't tax."

"Basically, what I did was take HMOs that were going under and put them back in shape,"

Bredesen boasted to a living-room audience of elite political operatives during an October campaign swing through Memphis.

In this climate of hostility towards the uninsured, Gov. Sundquist has hastily joined the "reform" camp by proposing to eliminate 180,000 enrollees from TennCare, winning public approval from his erstwhile opponent in the Senate, Marsha Blackburn.

At least one section of the fifth estate has registered dissent. The *Memphis Flyer's* editorial for October 18 reads as follows:

"We sympathize with a chief executive who has seen his tax-reform plans frustrated by mossback members of his own Republican Party and by opportunistic Democrats. But in this case the proposed solution, the gutting of TennCare, would not only be a bad end in itself, it is almost surely destined to fail as a concession to the professional government-bashers and ax-the-taxers, who in July conjured up a bona fide riot to sabotage tax reform — Better to see to our duty toward the uninsurables than to pander to this benighted lot."

- Jordan Green

not contain the "homebound" requirement. The papers do not mention the proposed rule change.

Blue Cross' overall net income rose from under \$1.4 million in 1997 to nearly \$29.2 million in 1998, according to *the Chattanooga Times Free Press*. A Blue Cross spokesman did not return calls from *the Flyer*.

Both sides claimed victory after a recent U.S. Supreme Court decision in a similar case, *L.C. v. Olmstead*. Last month, justices ruled that two mentally disabled women in Georgia could not be forced to live in a state psychiatric hospital after their doctors judged them eligible for home-based care.

Plaintiffs in both cases had sued their states based on the "integration mandate" of the Americans with Disabilities Act. The Supreme Court ruled that a state is responsible for home- and community-based care unless that would pose an undue burden. The office of Tennessee Attorney General John Knox Walkup is expected to argue such services would be a financial strain on Tennessee.

Bonnyman argues that the clause does not apply in Tennessee, since TennCare's original policy had

committed to the same level of services the state is trying to avoid providing now.

"It's awkward for them to argue successfully that providing home health care through the managed-care organizations is a fundamental alteration," he says, "when the plan they submitted to the federal government said they would do precisely that."

Melvin Douglas says the ruling can't come fast enough for him and other disabled Tennesseans. "We are people, and we want to live as fully as possible," he says. "We're not asking for charity. We're just asking to be treated fairly."

REMEMBERING FRIENDS

The Institute would like to remember two good friends who recently passed away: Dr. Albert Sawyer of Chapel Hill, North Carolina, and Carol Bernstein Ferry of New York. We remember their warm friendship, their generous support of the Institute, and their commitment to justice in the South.

Shag Dancing

"Many dancers consider the Shag a near-religion."

– Bo Bryan, author of *Shag: The Legendary Dance of the South*.



By Mary Lee Kerr

Southerners knew about Shagging long before Austin Powers came along. But Southern shagging is a little different – it is done fully clothed, on the dance floor, to a beach music beat.

"Shagging is more than a dance, it's a lifestyle," says Society of Stranders President Phil Sawyer of Columbia, South Carolina. "It's a lifestyle where you think of a youth down at the beach in the summer. He has a cold beer on a warm night with a hot date and no plans for tomorrow."

Shagging, and the lifestyle that went with it, originated 60 or 70 years ago, when young white Southerners in the Carolinas went to the beaches for fun and entertainment in the summer, vacationing or working as lifeguards by day and dancing the nights away in wood pavilions. "Dancing was practically the only source of young-adult entertainment after dark," writes Bo Bryan, author of *Shag: The Legendary Dance of the South*.

While it is impossible to pinpoint the exact origins of Shag dancing, it likely sprang from the Jitterbug, a circle dance called the Big Apple and the rhythms of African American dance halls in the 1930s and '40s, according to Bryan. Hall of Fame Shaggers like Billy Jeffers, Chicken Hicks and Big George Lineberry introduced music by Count Basie and other black musicians to white jukeboxes in the Carolinas. While their Northern counterparts got wild with the fast aerial stunts of the Jitterbug or intricate motions of Swing, Southern white teens altered the rhythm, moving to a slower, steadier beat, bodies erect, feet close to the floor in a rocking step with a pivot.

When in 1954 Hurricane Hazel demolished many of the pavilions and other buildings in Myrtle Beach – by then the unofficial Shag capital – the town built new pavilions and high-rise hotels in place of old guesthouses. By the 1970s, pavilions were holding Shag contests and dancers learned

complicated mirror steps and spins to music by the Dominoes, the Drifters, the Four Tops, and the Coasters.

Then in 1980, Swink Laughter got together 500 old-time Myrtle Beachers for four days of dancing to beach music, drinking, and little sleep in the first gathering of the Society of Stranders (SOS). So deep and abiding was Carolinians love of the Shag that South Carolina State Rep. Bubber Snow, an early Shagger, introduced a bill in 1984 to make it the state dance. He wrote that South Carolinians could be proud that "their state dance, the enduring and ever-evolving Shag, is at last becoming widely recognized from coast to coast."

While the 100 local Shag clubs that exist today are spread from coast to coast, most are still concentrated in the South. "People who do the Swing or the Lindy in the North or West dance competitively," says SOS's Sawyer. "Shagging is different because it's participatory rather than highly competitive. There are some Shag contests, but Shaggers mostly meet to dance, party and have fun." In cooperation with the Association of Carolina Shag Clubs, SOS now sponsors several major gatherings each year that attract as many as 10,000 Shaggers at a time. SOS also publishes a magazine, *Carefree Times*, that promotes the dance and the lifestyle that goes with it.

While partying is a key element of that Shag lifestyle, personal relationships undergird it, according to Sawyer. For the thousands of gray-haired Shaggers who danced the nights away in Myrtle Beach each summer when they were teens, and for their children who are Shagging for the first time, the dance is a tie that binds. "Shag is a dance which brings instant camaraderie," says Sawyer. "If you Shag, and they Shag, you become instant friends for life."

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