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COMMENTARY

Throwing the Baby Out with the Bathwater: A Call to Reinstate the Public Housing Drug Elimination Program

Wendy Tolson Ross

I. Introduction	498
II. Creation of the PHDEP	500
A. Why the PHDEP Was Created.....	500
B. How the PHDEP Has Helped PHAs.....	502
III. Policy to Eliminate Funding.....	504
A. PHDEP Duplicated Activities Provided by Other Programs.....	504
B. PHDEP's Impact Was Limited	505
C. Existing Regulatory Tools Are as Effective.....	508
1. One-Strike Policy.....	508
2. NYCHA Study.....	509
3. Problems.....	512
D. Fighting Crime Is Not HUD's Mission	514
E. Fighting Crime Is Someone Else's Mission	515
IV. Recent Legislation: Attempts to Revive the PHDEP.....	515
V. A Call to Reinstate the Program.....	517
VI. Conclusion	519

Abstract

In fiscal year 2002, the federal government, upon recommendation by the Office of Management and Budget, eliminated funding to the Public Housing Drug Elimination Program (PHDEP), a grant program designed to assist public housing authorities in fighting drugs and crime. In explaining

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its decision, the government cited (1) the program's ineffectiveness, (2) its duplication of activities, and (3) the availability of other enforcement tools (e.g., evictions) to control crime and drugs in public housing. On the surface, the budgetary concerns appear to be sound. However, today, seven years later, crime and drug violence are still causing problems in public housing communities, and both scourges remain out of control. This article examines the policy rationale given for eliminating the PHDEP, critiques the government's reasoning, and calls for reinstatement of the PHDEP.

I. Introduction

On July 21, 2008, Patricia McCray knew that after eighteen years she could no longer sit on the sidelines and watch as violence continued to destroy her public housing community. It was not until this violence struck home with the death of her eighteen-year-old son that she decided enough was enough. That incident led McCray to finally realize "it's time for me to step in because this is my village."¹ McCray believed it was time for "this darkness [of violence] . . . to come to the light."² Something needed to be done to save her fourteen-year-old son and the other children in her public housing community from the same fate that took her oldest son. Although the community was no longer a beneficiary of any federal grant money, McCray, along with her public housing authority (PHA), created a youth program for teens in her public housing village to provide strategies and activities to combat violence through the use of fundraisers such as shopping-spree raffles.³

Several years have passed since the government pulled out of the war on drugs and violence in PHAs by terminating the Public Housing Drug Elimination Program (PHDEP) grants. Although no longer a top priority for the federal government, crime and drug violence remain a continuing reality for public housing communities. This reality is a constant reminder that the war is not over and that PHAs, and the McCrays of this world, are left to fight their own battles.

Congress adopted the PHDEP under the Anti-Drug Abuse Act of 1988 in reaction to perceived and confirmed abuses in federal public housing, including drugs, violence, and crime. The PHDEP provided PHAs federal grant money to help develop education programs that decreased crime and drug activity in public housing, employing security personnel and measures and enforcing the drug and crime policy.⁴

1. Yolanda Putman, *Stopping East Lake Courts Violence*, CHATTANOOGA TIMES, FREE PRESS, July 21, 2008.

2. *Id.*

3. *Id.*

4. Anti-Drug Abuse Act of 1988, 42 U.S.C. § 11901 (1988).

In 2001, the federal government, through its Office of Management and Budget (OMB),⁵ terminated the PHDEP.⁶ In its annual report, OMB stated thus:

The Budget terminates the Public Housing Drug Elimination Program [PHDEP] for the following reasons: the same types of activities (e.g., security patrols and better lighting) are eligible under the Public Housing Operation and Capital Programs; the program was found to have limited impact; current regulatory tools, such as eviction, are effective in reducing drug-related crime in public housing; and fighting crime and drugs is not directly related to HUD's [Housing & Urban Development]' core mission—it is the mission of the Federal law enforcement and other agencies whose programs help combat illegal drugs and crime in public housing communities.⁸

This article critiques the federal government's rationale in abandoning the PHDEP. This article (1) demonstrates that the government's reasoning in support of its decision to discontinue funding for the PHDEP was misguided, (2) discusses the flaws in the federal government's reasons for dismantling the program, and (3) argues in favor of reinstatement and renewal of funding for the PHDEP.

After this brief introduction, part 2 presents an overview of the PHDEP and reviews the 2001 policy change that led to its abandonment. Part 3 presents a critique of the 2001 policy and its underlying rationale. Part 4 discusses the legislative attempts since 2001 to reinstate the PHDEP. Part 5 calls for a renewal of funding for the PHDEP with some modifications, including requirements that (1) research experts and criminologists be consulted to help each PHA develop a community-specific plan customized to meet the needs of each of its public housing units; and (2) a public housing drug and violence task force board, consisting of representatives from the public housing community and local agencies and organizations, be established.⁹

5. OFFICE OF MGMT. & BUDGET, OMB'S MISSION, *available at* www.whitehouse.gov/omb/organization/role.html (last visited June 3, 2009) ("OMB evaluates the effectiveness of agency programs, policies, and procedures, assesses competing funding demands among agencies, and sets funding priorities."); *see also* OFFICE OF MGMT. & BUDGET, A BLUEPRINT FOR NEW BEGINNINGS: A RESPONSIBLE BUDGET FOR AMERICA'S PRIORITIES (2001), *available at* www.gpoaccess.gov/usbudget/fy02/pdf/blueprnt.pdf (last visited June 17, 2009).

6. Anti-Drug Abuse Act of 1988, 42 U.S.C. § 11901. The PHDEP is a federal housing grant program to assist public housing agencies with providing "low-income housing that is decent, safe, and free from illegal drugs."

7. U.S. DEP'T OF HOUS. & URBAN DEV., HUD'S MISSION, *available at* www.hud.gov/library/bookshelf12/hudmission.cfm (last visited June 3, 2009).

8. OFFICE OF MGMT. & BUDGET, 8. COMMERCE AND HOUSING CREDIT, *available at* www.whitehouse.gov/omb/budget/fy2002/text/bud08.html (last visited July 6, 2009).

9. This combines the ideas proposed in Senator Russ Feingold's 2007 affordable housing bill (FEINGOLD INTRODUCES AFFORDABLE HOUSING BILL (Jan. 30, 2007), <http://>

II. Creation of the PHDEP

In 1988, the federal government created the PHDEP to fight the perceived and confirmed abuses in federal public housing, including drugs, violence, and crime.¹⁰

A. Why the PHDEP Was Created

In the late 1980s, crime and drugs were rampant in public housing.¹¹ In fact, the violence was so severe that the federal government launched an investigation to identify the causes of this plague that was paralyzing public housing.¹² On May 10, 1989, at a hearing before the Senate Permanent Subcommittee on Investigation of the Committee on Governmental Affairs, Chairman Sam Nunn, a Democrat from Georgia, examined the plight of public housing:¹³

We cannot, as a society, allow young people in public housing projects to grow up knowing no other life than one continually dominated by drugs and violence. We cannot allow them to grow up learning that the only way to cope with reality is to avoid it through drugs. . . . If we let that happen, the loss to our future as a Nation will be one borne by all Americans and not just by those who live in public housing. This problem is one that faces all Americans from all neighborhoods, rich and poor, and one which demands that we all work together as a Nation to find a solution.¹⁴

Nunn also expressed the national horror and shock over reports of public housing crime and drugs, declaring that the federal government and society owed a national duty to public housing residents.¹⁵ This duty included providing drug-free and safe public housing facilities.¹⁶ As a result of this investigation, Congress enacted the Anti-Drug Abuse Act of 1988.¹⁷

feingold.senate.gov/releases/07/01/20070130housing.html (last visited June 3, 2009)) and builds on the community resource idea that public housing was criticized for not utilizing in the congressional findings in the Anti-Drug Abuse Act of 1988. It also deals with the problem of lack of social capital that Fagan, Davies, and Holland revealed in their New York City study. Jeffrey Fagan et al., *The Paradox of the Drug Elimination Program in New York City Public Housing*, 13 GEO. J. ON POVERTY L. & POL'Y 415, 456 (2006); see also LANGLEY C. KEYES, STRATEGIES AND SAINTS: FIGHTING DRUGS IN SUBSIDIZED HOUSING 219-31 (1992) (concluding that public housing managers or "saints" that win at the war of drugs and crime in public housing are effective in enlisting the help of their communities).

10. Anti-Drug Abuse Act of 1988, 42 U.S.C. § 11901.

11. *Drugs and Public Housing: Hearing Before the S. Permanent Subcomm. on Governmental Affairs*, 101st Cong. 320 (1989).

12. *Id.*

13. *Id.* at 1-2.

14. *Id.*

15. *Id.*

16. *Id.*

17. Anti-Drug Abuse Act of 1988, 42 U.S.C. § 11901 (1988). In its annual report pursuant to the Anti-Drug Abuse Act of 1988, Congress stated that

In approving this act, Congress determined that the federal government, as landlord, was failing to provide adequate security in public housing communities.¹⁸ These safety failures included the government's inability to control and prevent violence and drug pushers.¹⁹ Other problems involved the government's lack of effort in teaming up with community resources, such as local police departments and residents' associations, to enforce crime prevention programs and plans of action.²⁰

Various factors have contributed to this harmful environment in public housing. Societal factors such as poverty, unemployment, and single-parent households have all contributed to drawing more criminal activity to public housing than to other areas.²¹ These factors also make it more likely that public housing residents will be targets of violence and drugs.²² Many believe that the arrival and rapid growth of crack cocaine in the mid-1980s caused an increase in violence and drugs in public housing.²³ In order to be effective, policies and programs must consider these surrounding environments.²⁴ "Public [h]ousing does not exist in a vacuum, but rather, both affects and is affected by its surrounding environment."²⁵

(1) the Federal Government has a duty to provide public and other federally assisted low-income housing that is decent, safe, and free from illegal drugs; (2) public and other federally assisted low-income housing in many areas suffers from rampant drug-related or violent crime; (3) drug dealers are increasingly imposing a reign of terror on public and other federally assisted low-income housing tenants; (4) the increase in drug-related and violent crime not only leads to murders, muggings, and other forms of violence against tenants, but also to a deterioration of the physical environment that requires substantial government expenditures; (5) local law enforcement authorities often lack the resources to deal with the drug problem in public and other federally assisted low-income housing, particularly in light of recent reductions in Federal aid to cities; (6) the Federal Government should provide support for effective safety and security measures to combat drug-related and violent crime, primarily in and around public housing projects with severe crime problems; (7) closer cooperation should be encouraged between public and assisted housing managers, local law enforcement agencies, and residents in developing and implementing anti-crime programs; and (8) anti-crime strategies should be improved through the expansion of community-oriented policing initiatives.

Id.

18. GARTH DAVIES, *CRIME, NEIGHBORHOOD, AND PUBLIC HOUSING* 22 (2006).

19. *Id.*

20. *Id.*

21. U.S. DEP'T OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, NATIONAL INSTITUTE OF JUSTICE, *DRUGS AND CRIME IN PUBLIC HOUSING: A THREE-CITY ANALYSIS* 6 (1994).

22. *Id.*

23. *Id.* at 12.

24. *Id.*

25. DAVIES, *supra* note 18, at 155.

Therefore, "policies and programs are less likely to be successful if they fail to address the full context of public housing."²⁶

"Public housing, by definition, involves the concentration of poor people in relatively static environments."²⁷ These communities share several common factors, such as the absence of social structure, property ownership, social agencies to handle the neighborhood needs of its citizens, youth programs, and jobs.²⁸ All of these problems and issues unique to public housing led Congress to develop a program targeted at these concerns.

B. How the PHDEP Has Helped PHAs

The PHDEP, a grant program, was created to combat, prevent, and eliminate crime and drug activity in PHAs.²⁹ PHDEP grant funds could be used by PHAs to meet the individual needs of their communities. These needs included employing extra police officers to provide security around public housing developments, improving lighting around public housing buildings, providing drug education and youth-related programs for the prevention of drug usage and abuse, and funding drug counseling and rehabilitation programs.³⁰

26. *Id.* at 22.

27. *Id.* at 28.

28. *Id.* at 12.

29. DEP'T OF HOUS. & URBAN DEV., OMB CIRCULAR NO. A-133, at 4-14.854-1 (2004), available at www.whitehouse.gov/omb/circulars/a133/compliance/04/hud.doc:

The purpose of the Public . . . Housing Drug Elimination Program (PHDEP) is to make available Federal grants to assist Public Housing Agencies (PHAs) . . . to reduce drugs and drug-related crime in and around public housing developments, and encourage PHAs . . . to develop plans that include initiatives that can be sustained over a period of several years for addressing the problem of drugs and drug-related crime in and around the premises of public . . . housing.

Id.

30. 42 U.S.C. § 11903 (1988). The PHDEP grant specifically allows

(1) the employment of security personnel; (2) reimbursement of local law enforcement agencies for additional security and protective services; (3) physical improvements which are specifically designed to enhance security; (4) the employment of one or more individuals—(A) to investigate drug-related or violent crime in and around the real property comprising any public or other federally assisted low-income housing project; and (B) to provide evidence relating to such crime in any administrative or judicial proceeding; (5) the provision of training, communications equipment, and other related equipment for use by volunteer tenant patrols acting in cooperation with local law enforcement officials; (6) programs designed to reduce use of drugs in and around public or other federally assisted low-income housing projects, including drug-abuse prevention, intervention, referral, and treatment programs; (7) where a public housing agency, an Indian tribe, or recipient of assistance under the Native American

The PHDEP grant money helped absorb the exorbitant costs to local police departments of providing additional security. One example is the New York City Housing Authority (NYCHA), which was annually receiving \$35 million, of which a little less than \$20 million, or 57 percent, was used to compensate the New York Police Department (NYPD) for its services to public housing.³¹ "The NYPD used the [PHDEP] funds to support two primary programs, an anti-graffiti initiative through which fifteen officers tracked and monitored graffiti (five of the officers were city-funded), and Operation Safe Home, which assigned teams of officers to patrol the interiors of developments."³²

Other uses of the grant money included funding community and youth programs and activities. These programs consisted of "tenant programs, summer employment programs, anti-narcotics special investigations, gymnastics, and scouting."³³ For example, one children's program provided

cultural and recreational activities and [the children] received lessons on drug awareness . . . through one-on-one counseling sessions and group sessions. Field trips to 'Youth to Youth' conferences, mental health community services, and public libraries provided preteens and teenagers with the knowledge and training to become peer counselors for younger children.³⁴

Youth programs, such as the one implemented by the Columbus Housing Authority (CHA) summer program, were developed to handle latch-key children who were left home all day by themselves. In some situations, children were left home all day with no food. Thus, the program filled in the gap and provided all meals, including dinner, when necessary.³⁵ Educational programs provided various kinds of training to both adults and children in public housing. These programs equipped residents with

Housing Assistance and Self-Determination Act of 1996 receives a grant, providing funding to nonprofit resident management corporations and resident council to develop security and drug abuse prevention programs involving site residents; and (8) sports programs and sports activities that serve primarily youths from public or other federally assisted low-income housing projects and are operated in conjunction with, or in furtherance of, an organized program or plan designed to reduce or eliminate drugs and drug-related problems in and around such projects.

Id.

31. N.Y.C. INDEP. BUDGET OFFICE, *INSIDE THE BUDGET: AS FEDERAL AID DROPS, CITY'S COST FOR POLICING PUBLIC HOUSING CLIMBS 2* (Apr. 15, 2004), available at www.ibo.nyc.ny.us/newsfax/insidethebudget/129.pdf (last visited June 3, 2009).

32. *Id.*

33. *Id.*

34. RECREATIONAL PROGRAMS THAT WORK FOR AT-RISK YOUTH: THE CHALLENGE OF SHAPING THE FUTURE 263 (1996).

35. *Id.* at 261.

knowledge about the dangers of drugs and crime and armed residents with preventive measures.³⁶

Finally, PHDEP grant money helped to establish the Wall of Fame in Columbia, South Carolina.³⁷ This wall was erected by the CHA to honor former CHA residents who have been successful in their chosen professions. The wall, built at the suggestion of the local police department in efforts to keep out drugs, serves as inspiration to CHA youth and helps to defeat the deleterious impact of drugs in the public housing area. Today, the wall continues to play an important role in the community and has been listed as a landmark in a South Carolina tourist publication.

III. Policy to Eliminate Funding

In 2001, the federal government decided to discontinue the PHDEP. As this article will demonstrate, this decision was a huge mistake. In support of its decision, the government criticized several aspects of the PHDEP and claimed that the program was so problem-ridden that it needed to be eliminated. Such criticisms and claims, however, are problematic in their reasoning.

A. PHDEP Duplicated Activities Provided by Other Programs

First, the federal government maintains that the same activities that the PHDEP covered, such as security, patrols, and better lighting, are already covered under other programs, including the public housing operating and capital funds.³⁸ Thus, the government reasoned that PHDEP activities were

36. *Id.* at 262.

37. U.S. DEP'T OF HOUS. & URBAN DEV., THE DAILY MESSAGE: COLUMBIA HOUSING AUTHORITY WALL OF FAME, www.hud.gov/news/focus.cfm?content=2006-07-11.cfm (last visited June 3, 2009).

38. 42 U.S.C. § 1437(g) (1999). Under the Public Housing Operating & Capital Fund, PHAs are provided funding to assist with carrying out capital and management responsibilities. Funds are provided under the Capital Fund in § (d)(1) for

management improvements, including the establishment and initial operation of computer centers in and around public housing through a Neighborhood Networks Initiative, for the purpose of enhancing the self-sufficiency, employability, and economic self-reliance of public housing residents by providing them with onsite computer access and training resources . . . capital expenditures to facilitate programs to improve the empowerment and economic self-sufficiency of public housing residents and to improve resident participation; (I) capital expenditures to improve the security and safety of residents.

Section (d)(2)(D) specifically allows PHAs to spend funds "to carry out activities that provide a safe and secure environment in public housing units owned, assisted, or operated by the public housing agency." The Operating Fund under § (e)(1)(C) provides for "anticrime and antidrug activities, including the costs of

duplicative and the PHDEP shouldn't be a separate program with separate grant money and guidelines.³⁹

Initially, for the 2002 budget, OMB provided an 8.1 percent increase to the public housing operating budget.⁴⁰ This increase was to encourage PHAs to continue PHDEP activities by partnering with local law enforcement agencies. However, no more than 20 percent of these capital funds may be used for anticrime and drug-fighting activities.⁴¹ Therefore, when the federal government changed the structure of the budget, it also changed the priority for funding crime prevention programs, which resulted in reduced effectiveness: fewer dollars mean less emphasis overall for drug and crime prevention, intervention, and enforcement measures. Consequently, many PHAs have had to make tough choices between allocating funds for daily operational program needs and allocating funds for specific drug and crime programs.⁴²

B. PHDEP's Impact Was Limited

Second, the federal government claimed that the PHDEP had only a "limited impact."⁴³ This claim is misleading. After all, the program itself contains safeguards to ensure and measure impact. Specifically, each housing authority grantee is audited to ensure compliance with grant guidelines, and each housing grantee must provide data to prove that its programs are effective.

providing adequate security for public housing residents, including above-baseline police service agreements." Additionally, § (e)(1)(K) provides for "the costs of operating computer centers in public housing through a Neighborhood Networks initiative."

39. OFFICE OF MGMT. & BUDGET, *supra* note 8.

40. OFFICE OF MGMT. & BUDGET, *supra* note 5. Yet, in 2000, there was a decrease in funding to the Capital and Operating Fund. Under the PHDEP grant, \$309 million was devoted to fight drugs and crime in public housing. CLPHA Urges House Subcommittee to Reverse Administration Priorities, CLPHA WKLY., Apr. 16, 2008, available at www.clpha.org/uploads/041608cwr.pdf (last visited June 17, 2009). In 2002, a meager 8.1 percent increase was given to help with transitioning from PHDEP grants. U.S. DEP'T OF HOUS. & URBAN DEV., MERGER OF PUBLIC HOUSING DRUG ELIMINATION PROGRAM (PHDEP) FUNDING WITH THE PUBLIC HOUSING OPERATING FUND FOR FY02, www.hud.gov/offices/pih/pha/policy/merger_info.cfm (last visited July 7, 2009). In the years following 2002, even less overall funding was devoted to fighting drugs and crime in public housing under the Capital and Operating Fund. See www.gpoaccess.gov/usbudget/fy02/pdf/blueprnt.pdf (last visited June 17, 2009).

41. 42 U.S.C. § 1437g(g).

42. Melvin Claxton & Ronald J. Hansen, *Highly Touted Crime-Fighting Tool Axed*, DETROIT NEWS, Sept. 27, 2004, at 7A ("When it ended the program, Congress said money for drug and crime elimination would be put in local housing authorities' operating budgets in fiscal 2002. But the money budgeted for operating and capital expenses this year is less than it was in 2000.").

43. OFFICE OF MGMT. & BUDGET, *supra* note 8.

An illustration of these existing safeguards can be seen in a 1988 audit report filed by the Office of the Inspector General (OIG) on the San Antonio Housing Authority (SAHA).⁴⁴ In its report, OIG sought to determine (1) whether the program met "satisfactory outcomes and benefits and (2) expended program funds for only eligible activities" under the PHDEP grant guidelines.⁴⁵

OIG found that SAHA failed to "maintain data or have a system to measure the satisfactory outcomes and benefits of its programs,"⁴⁶ resulting in speculation as to whether the activities provided any benefit.⁴⁷ According to OIG, SAHA lacked the proper infrastructure to operate the grant properly and to track the success of the program.⁴⁸ Additionally, the program lacked (and failed to properly establish) goals and appropriate long-term planning. The housing authority improperly applied grant funds to activities not covered by the grant. Specifically, the audit report revealed that during a three-year period, nearly \$900,000 in "ineligible or questionable costs" (over 17 percent of grant funds) were spent because "management and staff either chose to ignore or did not understand grant requirements."⁴⁹

OIG recommended that changes be made to improve the program, including that SAHA (1) properly train its administrative personnel in the handling of grant funds (including training on the documentation of eligible grant activities), (2) stop all inappropriate charges to the grant account, (3) justify the PHA's security measures, and (4) implement correct accounting tools to ensure compliance with federal guidelines and cost principles.⁵⁰

As a consequence of its misuse of grant funds, SAHA was penalized by the inspector general: it was unable to continue drawing funds from

44. 42 U.S.C. § 11907(4)(c). At the time of the audit, there were procedures and mechanisms in place to measure and ensure compliance with government regulations.

45. OFFICE OF INSPECTOR GEN., AUDIT REPORT: HOUSING AUTHORITY OF THE CITY OF SAN ANTONIO, Sept. 30, 1998, at iii, available at www.hud.gov/offices/oig/reports/files/ig861005.pdf.

46. *Id.*

47. *Id.* at 5. ("The [SAHA] could not demonstrate the benefits or results of its drug elimination activities. This [lack of demonstration] occurred because [SAHA] had not identified specific project crime statistics or monitored the benefits and results of activities it undertook to accomplish its goals.")

48. *Id.* at iii. OIG criticized SAHA's management and supervision of staff and the coordination of activities, finding that "[t]his deficiency led to poor fiscal record-keeping, poor cash management practices, [and] ineligible and questionable costs." *Id.* at 9.

49. *Id.* at iii. One example of this "deficiency in recordkeeping" is the use of grant funds to employ off-duty police to help with the security. *Id.* at 6.

50. *Id.* at 27-28.

the PHDEP grant,⁵¹ and it was forced to prove that its activities were appropriate under the PHDEP or repay the unauthorized expenditures. Also, SAHA was forced to implement changes to its programs to comply with grant guidelines. These changes included developing a tracking system that would provide data on the effectiveness of the antidrug and anticrime activities and ceasing all activities that were not specifically authorized under grant guidelines.⁵²

As illustrated by the SAHA experience, the oversight of the program worked exactly as planned. The safeguards in place worked to eliminate any claims of limited impact. One of the primary responsibilities of OIG is to ensure that the guidelines are followed and that programs are operating effectively. Through annual intensive audits, OIG monitored program recipients to make sure they were able to prove that the programs were performing as designed. Those programs found not to be operating properly were typically given recommendations for remedial measures to ensure compliance.⁵³ Failure to document and prove that the programs were in fact effective and operating appropriately resulted in penalties against the PHA. These penalties could include temporarily withholding monies, requiring repayment of grant dollars for improper expenditures, suspending or terminating the program for the current grant year, and excluding the PHA from the program in the following years.⁵⁴

Additionally, HUD has implemented the Public Housing Assessment System (PHAS) to evaluate each PHA's management of its units.⁵⁵ This tool is designed "to improve the delivery of services in public housing and enhance trust in the public housing system."⁵⁶ Specific to the issue at hand, using the PHAS as a management tool, each housing authority is graded on its ability to document drug- and crime-related problems; its ability to work with local policing agencies; and its adoption and use of effective screening, eviction policies, and methods under 42 U.S.C. § 1437d(j)(1)(I)

51. *Id.*

52. *Id.* at iii, 11–15. HUD blocked SAHA's ability to withdraw additional funds until SAHA provided additional proof through the reports required by OIG. *Id.* at 15 n.2.

53. *Id.* at 11.

54. 24 C.F.R. § 85.43(a). It can determine that acts by the housing authorities have put the PHA in violation of federal statute and regulations.

55. 24 CFR § 902.1 (2002).

56. *Id.* ("The purpose of the Public Housing Assessment System (PHAS) is to improve the delivery of services in public housing and enhance trust in the public housing system among public housing agencies (PHAs), public housing residents, HUD and the general public by providing a management tool for effectively and fairly measuring the performance of a public housing agency in essential housing operations." HUD's Real Estate Assessment Center office is responsible for evaluating each PHA.).

and performance under HUD grants for "drug prevention and crime reduction."⁵⁷ Thus, each PHA undergoes an intensive review to ensure that it is operating within acceptable ranges and that the programs are effective.

C. Existing Regulatory Tools Are as Effective

Third, the federal government maintains that its current arsenal of regulatory tools, such as evictions, are "effective" in place of the PHDEP in combating drug and crime in public housing.⁵⁸ These regulatory tools were developed under the so-called one-strike policy.⁵⁹ The following section will review the current regulatory policy in place under the one-strike policy and specifically look at eviction. It will also discuss the pitfalls of the government's rationale.

1. One-Strike Policy

In March 1996, President Clinton announced the implementation of the one-strike policy as a crime- and drug-fighting tool to battle the growing drug and crime epidemic in public housing.⁶⁰ This zero tolerance pol-

57. 24 C.F.R. § 902.43 (2002). Under this section, Management Sub-Indicator #5-Security, housing authorities are assessed and given a grade on how well they performed. They are evaluated on how well they track and report crime; their use of crime prevention strategies, including screening and evictions; and how well they work with the local community. Grade A is given to PHAs that have boards that have adopted policies and procedures for security and can provide proper documentation of this policy, i.e. they can "track crime and crime-related problems in at least 90 percent of [their] developments." They partner with the local policing agencies to report crime and trouble in [their] units and work with the local government and public housing residents to develop crime-fighting measures.

58. OFFICE OF MGMT. & BUDGET, *supra* note 8; *see also* OFFICE OF MGMT. & BUDGET, *supra* note 5.

59. Under 42 U.S.C. § 1437d(1)(6) (1999), leases are required to include a provision that allows for eviction for drug and criminal activity "that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants or any drug-related criminal activity on or off such premises, engaged in by a public housing tenant, any member of the tenant's household, or any guest or other person under the tenant's control." Also, under the Housing Opportunity Program Extension Act of 1966, PHAs were given access to criminal background records for those applying for housing. Under this authority, applicants could be denied public housing for any illegal drug activity or for alcohol abuse.

60. William J. Clinton, Remarks Announcing the "One Strike and You're Out" Initiative in Public Housing, in 1 PUB. PAPERS 519, 519 (Mar. 28, 1996), *available at* www.presidency.ucsb.edu/ws/index.php?pid=52598. This policy was first coined in President's Clinton's 1996 State of the Union Address. In this speech, President Clinton declared war on crime and drugs in public housing. He stated, "I challenge local housing authorities and tenant associations: Criminal gang members and drug dealers are destroying the lives of decent tenants. From now on, the rule for residents who commit crime and peddle drugs should be one strike and you're out." Address Before a Joint Session of Congress on the State of the Union, in 1 PUB. PAPERS 79,

icy advocated aggressively punishing those who break the rules against criminal and drug activity and protecting good public housing tenants.⁶¹ Recognizing failures and inconsistencies among PHAs, through the one-strike policy, HUD established specific guidelines to instruct PHAs how to carry out crime-fighting strategies, such as setting procedures for screening and eviction policies.⁶² Furthermore, the policy served as one of the primary regulatory tools in the war against crime and drugs.⁶³ The following section will review this policy as the regulatory tool that effectively roots out crime, according to the federal government, in lieu of the PHDEP.

2. NYCHA Study

The government's rationale discussed above relies heavily on the one-strike policy's enforcement tools,⁶⁴ e.g., evictions and application screening, as the government's medicine to cure public housing ills.⁶⁵ A recent study

83 (Jan. 23, 1996), available at www.presidency.ucsb.edu/ws/index.php?pid=53091. This policy was later implemented and referred to by HUD as its policy for evicting public housing residents. U.S. Dep't of Hous. & Urban Dev., "One Strike and You're Out" Screening and Eviction Guidelines for Public Housing Authorities (PHAs), www.hud.gov/offices/adm/hudclips/notices/pih/96-16PIHN.doc (last visited June 3, 2009),

61. U.S. Dep't of Hous. & Urban Dev., *supra* note 60.

62. *Id.* at 5. In its advisory publication to housing developments, HUD claimed that the one-strike policy can be a helpful tool in ridding drugs and crime from public housing. "Combined with crime prevention efforts, community policing, and aggressive law enforcement efforts like Operation Safe Home, One Strike can be a powerful and effective weapon in America's battle to turn crime and drug-infested public housing developments into safe, strong, and hopeful communities." It stated that "housing agencies in cities like Toledo, Ohio, Greensboro, North Carolina[,] and Macon, Georgia[,] are seeing dramatic results from using tough but fair One Strike policies to screen and evict drug dealers and other criminals."

63. OFFICE OF MGMT. & BUDGET, *supra* note 8. This tool would soon be validated only months later, in March 2002, by the U.S. Supreme Court in *Department of Housing & Urban Development v. Rucker*, 535 U.S. 125 (2002). In this case, the Oakland Housing Authority attempted to evict three separate households for drug activities by household members/guests. In each of these households, the primary tenants claimed that they were innocent as to their knowledge about the drug activity of household members and argued that their innocence should be a defense to any eviction procedures. The U.S. Supreme Court ruled that PHAs have complete autonomy in evicting tenants when household members or invited guests commit crime or drug violations. These PHAs are not obligated to consider whether or not the primary tenant knew of the prohibited activity.

64. OFFICE OF MGMT. & BUDGET, *supra* note 5.

65. JOIN TOGETHER, BUSH BACKS ELIMINATING HUD ANTI-DRUG PROGRAMS (Mar. 31, 2001), www.jointogether.org/news/funding/trends/bush-backs-eliminating-hud.html (last visited June 3, 2009).

of the NYCHA,⁶⁶ however, revealed several problems associated with the overreliance on regulatory tools such as evictions.⁶⁷ This study examined the effectiveness of the war on crime and drugs in NYCHA housing units under the PHDEP from 1985 to 1996⁶⁸ and reviewed each of the major components of some of the NYCHA programs, including Operation Safe Home (OSH), Anti-Narcotics Strike Force (ANSF), tenant patrols, and drug treatment.⁶⁹

The first component, OSH, concentrated its efforts on the traditional use of regulatory means, such as increasing the numbers of visible police officers and law enforcement and improving existing safety measures such as lighting and locks.⁷⁰ In fact, during the four-year period, police presence was increased from 48 percent to 81 percent.⁷¹ The primary goal of this program was to "provide a more secure living environment for its residents by combating serious crime."⁷²

The second component, ANSF, the legal section of the program, was comprised of a team of attorneys and support staff.⁷³ This department investigates, prosecutes, and enforces evictions of tenants engaged in crime and illegal drug activities.⁷⁴

The third component, tenant patrols, was originally established as a tool by which the NYCHA residents would partner with public housing police to make their surroundings safer.⁷⁵ These patrols were initially developed to be the "eyes and ears of the housing police" and to help establish a "bridge between the police and the community."⁷⁶ As such, the initial intent of the tenant patrols was to strengthen the social controls within public housing through tenant-based groups.⁷⁷

The drug treatment component of NYCHA concentrated on both intervention and prevention of drug use,⁷⁸ focusing mostly on adolescent and pregnant and postpartum depressed women.⁷⁹

66. Fagan et al., *supra* note 9. This study was a comprehensive study of the nation's largest public housing program and its use of the PHDEP. The writers of the study found very few comprehensive studies that evaluated the effectiveness of the program and therefore sought to examine the program. *Id.* at 417-18.

67. *Id.* at 418-19.

68. *Id.* at 423.

69. *Id.* at 425-32.

70. *Id.* at 427.

71. *Id.*

72. *Id.*

73. *Id.* at 429.

74. *Id.* at 429-30. The ANSF activities resulted in convictions of mostly petty drug users and pushers. These convictions resulted in public housing tenants discounting police efforts in controlling the crime war. *Id.* at 458.

75. *Id.* at 428.

76. *Id.*

77. *Id.* at 444.

78. *Id.* at 431.

79. *Id.*

When Rudy Giuliani took office as mayor in 1994, the PHDEP budget more than doubled in size.⁸⁰ The bulk of the money was distributed to the enforcement arm of the program. At the same time, the tenant patrols arm of the program was disproportionately underfunded.⁸¹ The increased funding and presence of police officers resulted in more aggressive police tactics and efforts to control crime.

Although the study revealed some positive impacts of OSH and ANSF activities on the surrounding communities, it also revealed the problems caused by overreliance on enforcement and regulatory measures and inadequate use of intervention and prevention activities in public housing developments.⁸² For example, the study revealed that these enforcement measures had little effect on drugs and crime within public housing.⁸³ Initially, the tenant arm of the program was poorly funded during the study period in contrast with the other components of the program.⁸⁴ The study concluded that this negative impact (caused by OSH and ASF activities, which included evictions) was due to funds being funneled from the tenant programs to the OSH and ANSF programs.⁸⁵ The result was that the budget for the tenant programs was significantly smaller by comparison and reduced even further by the time it was dispersed among the New York City housing developments.⁸⁶ Thus, the report notes that "[t]hese low funding levels per site may have limited the development and effectiveness of the non-enforcement approaches."⁸⁷

Tenants reported more aggressive policing. These enforcement tactics were seen by the tenants as unmerited and targeted by race.⁸⁸ These aggressive police acts resulted in more tension and less cooperation between public housing citizens and the police.⁸⁹ Thus, the report stated that "[t]he failure to mount viable interventions that directly touched on the drug problems, social and economic lives, or normative orientations of NYCHA residents may explain their withdrawal from social regulation, and in turn, the absence of DEP effects within projects."⁹⁰

Finally, the report in summary found that the program was not effective in large part because of its sole reliance on regulatory means. Specifically,

80. *Id.* at 426.

81. *Id.* at 456.

82. *Id.* at 454–58.

83. *Id.*

84. *Id.* at 456. "These programs were generally underfunded, thematically inconsistent, and not created with an eye toward permanence or even sustainability."

85. *Id.*

86. *Id.* at 429, 456.

87. *Id.* at 453.

88. *Id.* at 457.

89. *Id.* (Tenants complained that these tactics were counterproductive and tended to alienate tenants from the police.).

90. *Id.* at 453.

the researchers noted that "DEP must be viewed, then, not just in its ability to root out and suppress drug and crime problems in public housing, but in its ability to foster sustainable changes in public housing residents' capacity for social control."⁹¹ Furthermore,

without these cooperative acts from the public, the police risk being seen as an intrusive force imposing order. . . . While OSH and ANSF approaches might promote a temporary reduction of crime through suppression, a legitimacy-focused approach would promote construction of social networks that integrate community-level social processes with the regulation of crime and disorder.⁹²

Thus, it takes more than the use of regulatory tools to be effective in the war against drugs and crime in public housing.

3. Problems

The federal government specifically mentions eviction as being the most effective remedy in the war against crime and drugs in public housing. However, relying on enforcement by eviction has several problems.⁹³ One criticism of this tool is that it punishes innocent tenants and in some cases bears "no relation whatsoever to the policy goals of the law."⁹⁴ Further, it provides "no deterring effect on a public housing tenant who neither knows nor consents to criminal or disruptive activity."⁹⁵ Examples can be seen in evictions of elderly people who are evicted for the misdeeds of the actions of their children or grandchildren.⁹⁶

Another criticism of eviction is the limited effectiveness of this approach. In particular, housing authorities have excessive discretion when implementing the policy, and the policy fails to prevent nonresidents from participating in drug-related criminal activity in the housing community.⁹⁷

In fact, this administrative policy fails to address the full scope of the problem. It presumes that evicting the tenant will eliminate drugs and crime and that the problem lies only with public housing residents.⁹⁸ It neglects to consider all the players and scenarios that contribute to the drug war.⁹⁹ Accordingly, it does not deal with those nonresidents who constantly

91. *Id.* at 455.

92. *Id.* at 459.

93. In this section, the terms *eviction* and *one-strike policy* are used interchangeably because eviction is the primary tool of the one-strike policy.

94. Nelson S. Mock, *Punishing the Innocent: No-Fault Eviction of Public Housing Tenants for the Actions of Third Parties*, 76 TEX. L. REV. 1495, 1518 (1998).

95. *Id.*

96. *Id.*

97. Jim Moye, *Can't Stop the Hustle: The Department of Housing and Urban Development's "One Strike" Eviction Policy Fails to Get Drugs Out of America's Projects*, 23 B.C. THIRD WORLD L.J. 275, 289-91 (2003).

98. Mock, *supra* note 94, at 1515; see also Moye, *supra* note 97, at 291.

99. Moye, *supra* note 97, at 286.

hang around the housing authorities and who are involved in drug activities.¹⁰⁰ Therefore, the reliance on eviction does not solve drug-related crime problems in public housing.¹⁰¹

Another problem commonly identified with this policy is that it has the potential to do more harm than good. Because the consequences for violations are so severe, critics of the policy have stated that it defeats the goal of reducing or eliminating crime and, in fact, may actually encourage tenants to hide drug and criminal activity that they would normally report to police.¹⁰² Families who have uncontrollable children or other family members or guests could be reluctant to report problems to the housing authorities for fear that the whole family will suffer.¹⁰³ In contrast, parents could have sought assistance through the juvenile programs and drug rehabilitation partnerships offered and funded through the PHDEP.¹⁰⁴ Thus, the long-term results of eliminating the PHDEP may produce unintended effects.

Additionally, the policy has a negative emotional and social impact. Public housing administrators have stated that "it turns everybody's lives upside down."¹⁰⁵ This upheaval applies to both sides of the issue: the PHAs and the tenants. For the PHAs, evictions are expensive in terms of both administrative and court costs.¹⁰⁶ Other eviction-related costs include renovating the housing unit after the tenant is no longer there.¹⁰⁷ The policy also results in negative societal consequences for tenants. Often, these families, who have limited means, are forced deeper into poverty or become homeless because they are unable to afford other housing, which is why they initially qualified for public housing.¹⁰⁸ As a result of this forced homelessness, families suffer tremendously.¹⁰⁹ Children often miss more school, and the adults miss more time and days from work.¹¹⁰ Therefore, society as a whole is much worse off than before.

The policy presumes that enforcement by eviction or other regulatory means is the most and only effective weapon in combating the drug and crime war in public housing. Instead, the government should be investing more of its resources in prevention and intervention.¹¹¹ "[T]reatment

100. *Id.* at 288–89.

101. *Id.* at 292.

102. Mock, *supra* note 94, at 1517.

103. Renai S. Rodney, *Am I My Mother's Keeper? The Case Against the Use of Juvenile Arrest Records in One-Strike Public Housing Evictions*, 98 Nw. U.L. REV. 739, 742 (2004).

104. *Id.* at 768.

105. Dee NaQuin Shafer, *To Evict or Not Evict*, 59 J. HOUSING & COMMUNITY DEV. 12, 16 (2002).

106. *Id.*

107. *Id.*

108. Mock, *supra* note 94, at 1499.

109. *Id.* at 1499–1500.

110. *Id.*

111. Moye, *supra* note 97, at 290.

is ten times more cost effective than interdiction . . . and every dollar invested in treatment saves the taxpayers \$7.46 in societal costs such as police, prisons and medical services. . . ."¹¹² Further, the government's eviction policy has sparked numerous complaints from housing groups such as the National Association of Housing and Redevelopment Officials and the Public Housing Authorities Directors Association (PHADA).¹¹³ Specifically, PHADA criticized the plan by pointing out that "evictions are no substitute for comprehensive anti-drug efforts."¹¹⁴

D. Fighting Crime Is Not HUD's Mission

The federal government maintains that "fighting crime is not directly related to HUD's core mission."¹¹⁵ This new policy change directly conflicts with the congressional findings made in the late 1980s. Congress specifically found that HUD had a duty regarding public housing.¹¹⁶ This duty includes providing "housing that is decent, safe, and free of drugs" to its tenants.¹¹⁷

The government's new stance has had a severe impact on policing housing authorities and surrounding neighborhoods. It has forced police departments to cut back on services provided to PHAs.¹¹⁸ One example is NYCHA, which received PHDEP grant dollars until the program was terminated in 2002.¹¹⁹ As the result of the elimination of these grant dollars, the police department of New York City, as well as others, is forced to make hard decisions about its programs.¹²⁰ These programs, such as sports programs and other programs that have been instrumental in fighting crimes of various sorts, are affected by the cut in PHDEP money.¹²¹ Additionally, the reduction in funding has resulted in many of the police officers being relocated from housing developments to other places throughout the city.¹²² Thus, the results are less police attention and fewer direct services to PHAs.

112. *Id.* at 292 (citing Tom Condon, *Flash: Drug War No Joke*, HARTFORD COURANT, Apr. 4, 2002, at B1).

113. JOIN TOGETHER, BUSH BACKS ELIMINATING HUD ANTI-DRUG PROGRAMS, *supra* note 65.

114. *Id.*

115. OFFICE OF MGMT. & BUDGET, *supra* note 8.

116. 42 U.S.C. § 11901.

117. Claxton & Hansen, *supra* note 42.

118. N.Y.C. INDEP. BUDGET OFFICE, *supra* note 31, at 3.

119. *Id.*

120. *Id.*

121. *Id.*

122. Claxton & Hansen, *supra* note 42. The report states

The end of the drug elimination program has meant a drop in police presence in housing projects around the country. It has also forced local housing agencies to abandon other elements of their public safety plans. . . . Local police agencies around the country have tried to maintain their patrols in the projects, a task

E. Fighting Crime Is Someone Else's Mission

As a final reason for the program's termination, the government claims that fighting crime is someone else's mission and contends that this mission more appropriately belongs to federal law enforcement and other agencies that fight drugs and crime in public housing.¹²³ This argument fails to acknowledge that these agencies existed before the PHDEP but could not contain the violence and drugs in public housing. Not only is this policy counterproductive to controlling crime in public housing, it ignores the impact of problems and the epidemic of the past. In its 1980 investigation, Congress found that crime rose to a level that local law enforcement could not handle or control.¹²⁴ Further, it found that these local law enforcement agencies lacked the resources to deal with public housing problems.¹²⁵ Congress encouraged the federal government to foster a spirit of partnership with local agencies by providing support to these local law enforcement agencies.¹²⁶ For this reason, Congress allowed grant money to be used specifically to assist and alleviate the strain on local law enforcement.¹²⁷ Yet, within two decades, the government has forgotten the lessons of the past and shifted responsibility away from HUD (the agency that ensures these protections for public housing tenants) and is now abrogating all responsibility for the problem.¹²⁸

IV. Recent Legislation: Attempts to Revive the PHDEP

Individual congressmen have made several failed attempts to reauthorize funding for the PHDEP program, including the Affordable Housing Expansion and Public Safety Act introduced by Senator Russ Feingold (D-WI) in January 2007.¹²⁹ Although Feingold's bill only made it as far as the Senate Committee on Banking, Housing, and Urban Affairs, it called for renewal of funding to the PHDEP, among other things. Feingold said that this bill was intended to "help combat the housing crisis and provide our cities and towns with the tools necessary to build, supply, and preserve affordable

made more difficult because of their new homeland security responsibilities and the leaner budgets that followed the terrorist attacks.

123. OFFICE OF MGMT. & BUDGET, *supra* note 8.

124. *Id.*

125. 42 U.S.C. § 11901 (1988).

126. *Id.*

127. *Id.*

128. OFFICE OF MGMT. & BUDGET, *supra* note 8.

129. Affordable Housing Expansion and Public Safety Act, S. 427, 110th Cong. (2007). The bill was referred to the Senate Committee on Banking, Housing, and Urban Affairs, where no further action was taken. Feingold introduced comparable legislation in 2006, S. 4063, 109th Cong. (2006), with similar results.

housing”¹³⁰ and that it would allow for “a sound investment in the future of our communities, both in Wisconsin and across the country.”¹³¹ To increase the effectiveness of the PHDEP, the bill included language that “ensur[ed] that grantees receive information about what type of activities work best to combat crime, and provid[ed] resources for rigorous scientific evaluation of crime fighting strategies in public housing environments.”¹³² Specifically the bill proposed to change the Anti-Drug Abuse Act of 1988 to

(1) extend to FY2012 the authorizations of appropriations for the Public and Assisted Housing Crime and Drug Elimination Program (PHDEP); (2) set aside specified amounts for the Office of Policy Development and Research; (3) identify activities eligible for grant funds; and (4) require the Office to review research to assess strategies likely to be effective in preventing and reducing violent and drug-related crimes in public and federally assisted low-income housing.¹³³

The bill also called for reauthorizing the following prevention, intervention, and enforcement activities:

(A) providing access to treatment for drug abuse through rehabilitation or relapse prevention; (B) providing education about the dangers and adverse consequences of drug use or violent crime; (C) assisting drug users in discontinuing their drug use through an education program, and, if appropriate, referring such users to a drug treatment program; (D) providing after school activities for youths for the purpose of discouraging, reducing, or eliminating drug use or violent crime by youths; (E) providing capital improvements for the purpose of discouraging, reducing, or eliminating drug use or violent crime; and (F) providing security services for the purpose of discouraging, reducing, or eliminating drug use or violent crime.¹³⁴

Thus, the same activities permitted previously under the PHDEP program would be continued under the Feingold bill.

The bill also provided for a new element to be added to evaluate the PHDEP for effectiveness. It proposed that any plan submitted under this program should involve the collaboration of local law enforcement and organizations.¹³⁵ Additionally, Feingold’s plan mandated that the Office of Policy Development and Research implement the plan.¹³⁶ HUD would be

130. FEINGOLD INTRODUCES AFFORDABLE HOUSING BILL, *supra* note 9.

131. *Id.*

132. FEINGOLD URGES CONGRESS TO MAKE REAL INVESTMENT IN AFFORDABLE HOUSING (Feb. 26, 2007), <http://feingold.senate.gov/releases/07/02/20070226.html> (last visited July 17, 2009).

133. WASHINGTONWATCH.COM, www.washingtonwatch.com/bills/show/110_SN_427.html (last visited July 17, 2009).

134. S. 427, 110th Cong. § 4(c) (2007).

135. *Id.* § 4(d).

136. *Id.* § 4(d).

required to file a report on the effectiveness of the program within four years of the start of the program.¹³⁷ This report would include

(1) aggregate data regarding the categories of program activities that have been funded by grants under this chapter; (2) promising strategies related to preventing and reducing violent and drug-related crime in public and federally assisted low-income housing derived from—(A) a review of existing research; and (B) evaluations of programs funded by grants under this chapter that were conducted by the Office of Policy Development and Review or by the grantees themselves; (3) how the information gathered in paragraph (2) has been incorporated into—(A) the guidance provided to applicants under this chapter; and (B) the implementing regulations under this chapter; and (4) any statutory changes that the Secretary would recommend to help make grants awarded under this chapter more effective.¹³⁸

In the 111th Congress, Representative Barbara Lee (D-CA) introduced the Public Housing Drug Elimination Program Reauthorization Act of 2009 in January 2009, and Senator Tim Johnson (D-SD) introduced the Public and Indian Housing Crime and Drug Elimination Program Act in June 2009.¹³⁹ Both bills call for the reauthorization of the PHDEP to include many of the same activities as the earlier Feingold bills.¹⁴⁰ Both bills have been referred to committee.¹⁴¹

V. A Call to Reinstate the Program

Instead of abandoning the PHDEP program, the federal government should reinstate it with some modifications. First, the program should require that a portion of the grant money be used to hire criminologists and other experts to properly research, acquire, and study data on crime and drug usage and to advise each grant recipient.¹⁴² The current data for public housing as a whole is largely unreliable.¹⁴³ There is no standard or consistent method to assess public housing.¹⁴⁴ Often, the data relied on is collected from local police departments, which use different methods to track crime in and around public housing communities.¹⁴⁵ The data is outdated and does not adequately reflect the condition of today's public hous-

137. *Id.* § 4(d).

138. *Id.* § 4(d).

139. H.R. 582, 111th Cong. (2009); S. 1327, 111th Cong. (2009).

140. *Id.* However, this bill did not include a provision for the Office of Policy Development and Review and the requirement of a report.

141. GOVTRACK.US: A CIVIC PROJECT TO TRACK CONGRESS, www.govtrack.us/congress/bill.xpd?bill=h111-582 (last visited July 16, 2009).

142. *See supra* note 9.

143. DAVIES, *supra* note 18, at 8.

144. *Id.*

145. *Id.*

ing community.¹⁴⁶ Moreover, the existing data tends to focus only on large PHAs in older, established neighborhoods in the larger cities.¹⁴⁷

To ensure that data is used most effectively and efficiently, each study must be community-specific for each public housing site. Public housing communities are very complex. "Developments vary in terms of their size and nature of their crime problem, and these differences necessitate divergent responses. Thus, strategies must be 'carefully tailored' to analysis of the specific site, wider [surrounding] neighborhood setting, and actual crime problem."¹⁴⁸ Because each public housing community is unique with its own set of unique problems, each public housing grantee must be evaluated using statistics and information specific to its location and dynamics.

Second, each PHDEP grantee should be required to establish a drug and violence task force board.¹⁴⁹ A major problem facing public housing is its lack of social capital.¹⁵⁰ Through the use of a task force board, the public housing will be able to tap into community resources. The board should be diverse and consist of representatives and liaisons from local community agencies, such as drug counseling/rehabilitation agencies, lawyers, police departments, PHA management, and PHA tenants. The task force board will nurture partnerships at the local level, where all the key players come together to be part of the solution to fight crime and drugs in public housing.

The task force board should be charged with reviewing, implementing, and developing policies and practices that are effective given the needs of each public housing unit in each locale. This board would be responsible for constantly reviewing and evaluating existing practices and programs, as well as working with the criminologists and experts to decide what changes are needed. Finally, the board would supplement the work of the Office of Inspector General by ensuring that each program is using grant dollars and community resources effectively and having an impact on the drug and crime war in its public housing community. This task force board would provide more protection, input, and oversight of the program. Furthermore, it would encourage community support of the program.

146. *Id.* at 9.

147. *Id.* at 8-9.

148. *Id.* at 20.

149. Diana A. Johnston, *Drugs and Public Housing: A Connecticut Case Study*, 24 CLEARINGHOUSE REV. 448, 449 (1990). Connecticut has such a task force board. It consists of "various experts as members, including police chiefs, drug and alcohol abuse program directors, tenant leaders, PHA executive directors, HUD, DOH, and local housing officials, state representatives, community service providers, foundation officials, and lawyers with varying backgrounds, including two legal services attorneys."

150. Fagan, *supra* note 9, at 456.

VI. Conclusion

The decision to eliminate the PHDEP directly contradicts the original stated mission of the federal government to provide safe and drug-free public housing. It is tragic that only a decade after the initial establishment of the PHDEP, the government no longer remembers its duty to public housing residents. This inaction leaves residents exposed to the same forces that were around (and continue to operate) since the inception of the program and forces them to fight the war on crime and drugs on their own.

The government cannot use enforcement and regulatory tools alone. As illustrated by the NYCHA study and other studies on the war on crime and drugs in public housing, this is not a long-term solution. To be successful, the government must include preventive and intervention measures in its arsenal as well. Therefore, the federal government should reinstate the PHDEP and enlist the villages (public housing and its communities) in the war. These villages should be created through the use of experts (such as criminologists and researchers) and local task force boards that focus on collaborative solutions customized for each individual housing development for the good of all in its community.

Clearly, PHDEP funding should be reauthorized. The current funding levels under the capital and operating funds are not adequate, do not provide enough focus or resources to the public housing violence and drug problem, and leave the village defenseless to fight with only meager or no resources. Therefore, the PHDEP should be reinstated with adequate funding and appropriate safeguards.