

The Aftermath of *Gautreaux*

Housing Discrimination and a Shift toward Housing Choice Vouchers in Chicago

VALERIE GUTMANN, AB'17

Introduction

The history of public housing in the city of Chicago is fraught with racial tension that often manifested itself through segregationist policy. Racial tension in Chicago was paralleled by racial tension in the United States more broadly. The landmark public-housing desegregation lawsuit *Gautreaux v. Chicago Housing Authority* (1967, 1969) had already been filed when the National Advisory Commission on Civil Disorders (led by Illinois Governor Otto Kerner Jr. and known as the Kerner Commission) released its 1968 report on the state of US race relations. The report concluded: “Our nation is moving toward two societies, one black, one white—separate and unequal” (Polikoff 61–62).

In this paper, I explore the historical context that led to *Gautreaux*, review the wording of the decisions, examine the reaction of the Nucleus of Chicago Homeowners Association, a community organization opposed to public housing in white neighborhoods, and explore the connection between neoliberal ideology and the Housing Choice Voucher program. I also rely on data from interviews to reveal the obstacles faced by Housing

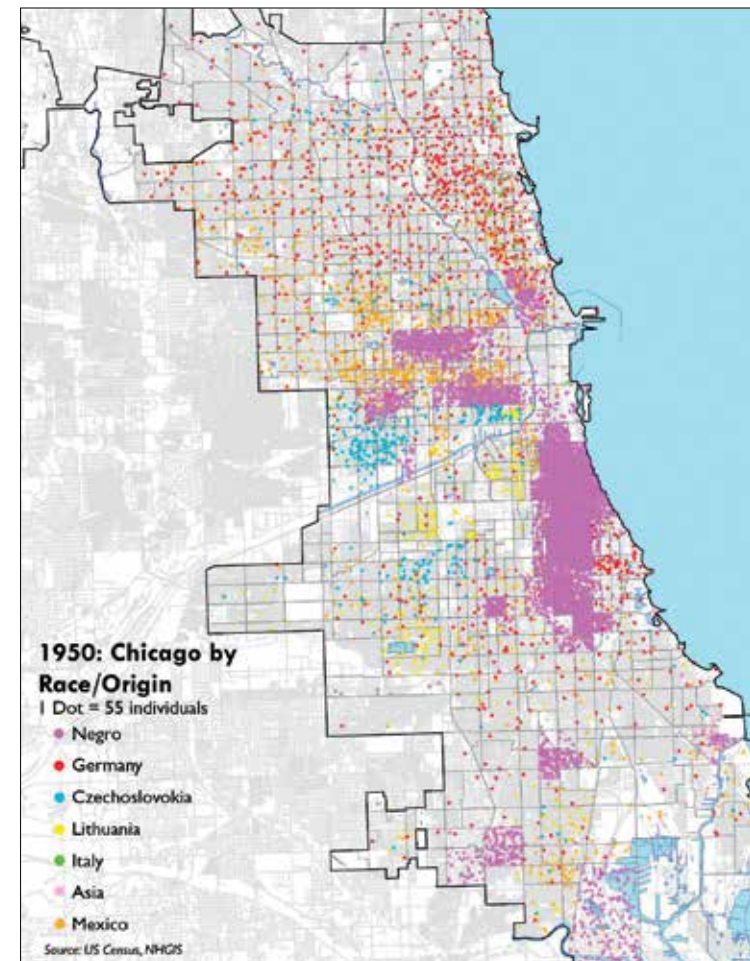


Choice Voucher participants¹ trying to secure housing, what this means for housing discrimination in Chicago, and what policy reforms would be necessary to promote more widespread housing stability. It is important to examine the obstacles facing voucher holders in an age when the idea of vouchers is entering national discourse, not only in conversations about housing but also in federal policy proposals about education and health care.

The Historical Context of *Gautreaux*

The Federal Housing Administration was established in 1934 at a time when public housing was intended primarily for working-class white families (Rothstein 45). The Neighborhood Composition Rule (NCR) had already asserted in 1932 that “occupants of completed [Public Works Administration] projects should conform to the prevailing composition” of the neighborhood as it was before redevelopment, a sentiment which was supported by the racist climate in Chicago’s city hall (Hunt 2009 54). Some argued that the rule was intended to match public-housing residents with communities where they were most likely to feel welcomed; in practice, it was a thinly veiled justification for relegating public housing to African American neighborhoods. Chicago, a racially diverse and segregated city, was an easy place to apply the rule and successfully exclude African American public-housing residents from white neighborhoods (Silver; US Census) (see Map 1). These segregationist policies also occurred in other cities across the United States. St. Louis began redlining with a ballot measure in 1916, which “won by a substantial majority, creating an ordinance that designated some areas as Negro blocks” (Covert). St. Louis realtors could only sell property to African Americans

1. “CHA residents” refers to both public-housing residents and Housing Choice Voucher participants. “Public-housing residents” live in CHA housing and “HCV participants” or “voucher holders” participate in the US Department of Housing and Urban Development’s HCV program.



Map 1: 1950: Chicago by Race/Origin
 (US Census)

on designated blocks or risk losing their license. Restrictive covenants across the country created racially segregated cities that persists today, despite the fact that the NCR ended in 1949.

Yet in few cities was segregation so explicit as in Chicago. African American public-housing residents could not live in the small number of public-housing sites in white areas (Hunt 2004). The Chicago Housing Authority (CHA) had maintained a policy to house only whites in projects that were located in primarily white neighborhoods, both before and after the Neighborhood Composition Rule (Hunt 2009 54). Trumbull Park Homes, located at 105th Street and Yates Avenue, in what as then a white neighborhood, were an example of such a project. Trumbull Park was accidentally integrated in 1953 when the CHA mistook the fair-skinned Betty Howard as white (Hunt 2004). Race riots broke out less than a week after Betty and her husband Donald moved in, and the things thrown at the couple included not just racial slurs, but fireworks and rocks (Hirsch 80). Racial tension in Trumbull Park periodically erupted into violence throughout the 1950s. By the 1960s working-class white families, who had benefited from the postwar economic boom and access to mortgages, rarely lived in public housing, and Chicago public housing was left about 90 percent African American (Lazin 264). New public-housing construction took place disproportionately in African American neighborhoods, many of which were impoverished and devoid of amenities, like public transportation (Pattillo 216).

It would be easy to vilify the CHA for not fighting harder to integrate its properties, but it is important to remember the complicated political workings of the City of Chicago, which determined where public housing was built. In the 1960s the CHA wanted to build public housing on vacant land scattered throughout the city. However, “since the City Council had a veto over CHA site proposals, the CHA had to comply with City Council demands” (Lazin 264). Powerful aldermen representing white communities thwarted every attempt to build public housing in white Chicago neighborhoods between 1950 and 1966 (Hirsch 214; Polikoff 61).

The *Gautreaux* Ruling and How It Was Received

Like the earlier *Brown v. Board of Education* (1954), *Gautreaux* (1967, 1969) argued that the CHA violated the equal-protection and due-process clauses of the Fourteenth Amendment, and that the CHA’s tenant assignments and site selections were racial discrimination (296 F. Supp. 907 at 909–13; Polikoff 49). The US District Court for the Northern District of Illinois held that the CHA’s policies were in violation of the Constitution: “Plaintiffs... have the right under the Fourteenth Amendment to have sites selected for public housing projects without regard to the racial composition of either the surrounding neighborhood or of the projects themselves” (265 F. Supp. 582 at 913). Judge Richard Austin ruled: “No criterion, other than race, can plausibly explain the veto of over 99½ percent of the housing units located on the White sites which were initially selected on the basis of CHA’s expert judgment and at the same time the rejection of only 10% or so of the units on Negro sites” (265 F. Supp. 582 at 912). The veto power of the City Council and the pressures of public opinion did not exonerate the CHA from responsibility for correcting violations to the Fourteenth Amendment: “In fact, even if CHA had not participated in the elimination of White sites, its officials were bound by the Constitution not to exercise CHA’s discretion to decide to build upon sites which were chosen by some other agency on the basis of race” (265 F. Supp. 582 at 914).

A companion lawsuit, *Hills v. Gautreaux* (1976), argued successfully before the Supreme Court that the US Department of Housing and Urban Development had knowingly funded the CHA’s segregative actions and violated the Civil Rights Act of 1964, which prohibited “racial discrimination in programs that received federal funding” (Polikoff 49).

Gautreaux was important both for what it ruled and what it did not rule. It set a precedent of guilt specifically as a consequence of racially motivated intent. While government agencies could not explicitly wield

their programs to promote residential segregation, they were not explicitly barred from inaction in the face of racial segregation furthered by others (Wilens and Stasell 162). *Gautreaux* did not sufficiently address the historic role of racially motivated government policies in creating the existing patterns of residential segregation or what was at stake in contemporary government inaction in the face of those patterns of racial segregation. Austin's ruling was problematic because local government with access to other funds could avoid federally funded development programs, that mandated integration under the Civil Rights Act of 1964 (O'Neill 687). The task of undertaking desegregation rested disproportionately with poorer municipalities. Chicago and other cities that were losing their tax base, due to white flight to suburbs, could not afford to opt out of federal funding (Polikoff 149–52). The result was the continued evolution of a decentralized, federally supported housing policy in which “the basic direction... has been the concentration of the poor in the central city and the dispersal of the affluent to the suburbs” (Jackson 230).

The exodus of affluent whites to the suburbs left remaining white voters and their alderman feeling even more embattled. Some of these opposing parties formed the Nucleus of Chicago Homeowners Association after Austin's 1969 ruling and in 1972 opposed the CHA's first set of sites for scattered-site public housing (Polikoff 162). *Nucleus of Chicago Homeowners Association v. Lynn* (1975) used the wording of “the human environment” in the National Environmental Policy Act to argue that, in the wake of *Gautreaux*, concerns other than racial discrimination ought to be central to the location of public housing (Polikoff 162). *Nucleus* “alleged that low-income housing tenants as a group... possess a higher propensity toward criminal behavior,... a disregard for... maintenance of personal property, and a lower commitment to hard work” (524 F. 2d 225 at 228). Considering that the majority of CHA residents were African American, *Nucleus*'s scathing account of the character of public-housing residents is a barely disguised proxy for race (Badger). Quillian and Pager demonstrate that people use danger as a proxy for race: “Neighborhood residents take strong cues from the race of their

surrounding neighbors, systematically inflating their perceptions of crime in the presence of blacks nearby” (738).

Nucleus further argued that “the proposed construction of CHA scattered-site housing [would] have a direct adverse impact upon the physical safety of those plaintiffs residing in close proximity to the sites, as well as a direct adverse effect upon the aesthetic and economic quality of their lives so as to significantly affect the quality of the human environment” (524 F. 2d 225 at 228). *Nucleus* likened public-housing residents to an infectious disease by suggesting that mere proximity to them would endanger personal safety and property values alike. The US District Court for the Northern District of Illinois and the Seventh Circuit Court of Appeals rejected *Nucleus*'s “human environment” argument: “At the outset, it must be noted that although human beings may be polluters (i.e., may create pollution), they are not themselves pollution (i.e., constitute pollution)” (372 F. Supp. 147 at 149). The district court defined the question before them as “whether acts or actions resulting from the social and economic characteristics will affect the environment” (372 F. Supp. 147 at 149). *Nucleus*'s formal justification for invoking the National Environmental Policy Act had been HUD's failure to prepare an environmental impact statement when proposing the scattered-site housing (Polikoff 162). The rulings dismissed this complaint: “It is clear that HUD chose to consider the impact of the scattered-site housing on the social fabric of the recipient communities” (524 F. 2d 225 at 231), and “the CHA's tenant selection and eviction policies further diminish the possibility that prospective CHA tenants will pose a danger to the health, safety, or morals of their neighbors” (524 F. 2d 225 at 231).

Dispersion of Poverty, Growing Reliance on Vouchers, and Neoliberalism

The *Nucleus's* argument that public-housing residents were equivalent to a disease was later employed to support scattered-site housing—the very thing *Nucleus* had opposed. Instead of thinking of public-housing residents as an infectious disease capable of overpowering new environments, this new ideology considered poverty (and by extension, the public-housing residents themselves) an infirmity best overcome by dispersion throughout the “body” of the city of Chicago (Goetz). The idea of poverty as a disease so thoroughly overtook public perception that in 1974 the *Journal of the National Medical Association* claimed poverty as the *cause* for physical infirmities from “mental retardation” to “heart disease” (Cobb 522).

After *Gatreaux* the CHA attempted to make public housing “available on a non-discriminatory, scattered-site basis, with low-income residents of CHA developments to be afforded opportunities to move to non-segregated areas” (Pennick). By 1987 the CHA suspended work on its scattered-sites projects and asked the federal courts to place the mismanaged and bankruptcy program in receivership (Ziemba and Reardon). Financial problems continued, and in 1995 the entire CHA board resigned and yielded control of the authority and its programs to HUD (Terry). The largest takeover of a city housing authority in the country’s history drew national attention to the CHA and to the persistence of the segregationist housing reality in Chicago that had spurred *Gatreaux* decades earlier.

In 2000, the CHA embarked on the Plan for Transformation, which, in the words of the CHA, “was the largest, most ambitious redevelopment effort of public housing in the United States, with the goal of rehabilitating or redeveloping the entire stock of public housing in Chicago” (CHA “Plan”). The plan included demolishing high-rise projects, citing physically unsafe conditions in the apartments and the difficulty of policing the buildings. Federal policy influenced the timing and

details of this initiative. A provision of the 1966 annual spending bill for HUD “mandated public housing authorities to do... viability studies for all the housing developments that had a vacancy rate of 10% and at least 300 units” (Bennett et al. 156). After years of neglected repairs, 17,859 public housing units—a significant portion of the total—failed viability tests in the 1990s (Venkatesh 265). The CHA conveniently incorporated federally mandated demolition of nonviable units into the Plan for Transformation.

The Plan for Transformation proposed to “promote the integration of public housing residents into less poor, more economically diverse neighborhoods in the city” (Chaskin and Joseph 9). However, the plan often fractured community bonds that had existed for generations in Chicago’s high-rise public housing, such as Cabrini-Green Homes. From the demolition of the first tower in 1995 to the razing of the final tower in 2011 the destruction of Cabrini-Green destroyed not only buildings, but a community (Bezalel). Cabrini-Green residents continued their strong community bonds after the demolitions at a weekly reunion called Old School Mondays, which began in 2003 as a time to reminisce and reconnect with old neighbors (Bezalel; Lydersen). It is impressive that these social bonds prevailed and that some of the Cabrini-Green residents were able to return to the mixed-income development built on the former site. However, for thousands of other public-housing residents, moving out of their high-rises meant a permanent separation from those social-support structures (Venkatesh and Celimli).

As public-housing authorities in many cities began to demolish centralized public housing in the 1990s “the federal government turned to two main strategies to deconcentrate poverty from public housing developments: [vouchers] and mixed-income developments” (Chaskin and Joseph 55). Both of these shifts away from high-rises align with the ideology of poverty as an illness that should be dispersed for best chances of mitigation. Since 1995, when the federal government rescinded a rule that required one-for-one replacement of any public-housing units demolished (Petty 222), HUD has awarded billions of dollars to cities

to topple housing projects and replace them with mixed-income developments (Brophy and Smith 4). However, even if mixed-income developments had as many units as the high-rise sites they were meant to replace (which they inevitably do not because the individual units are larger and the buildings include more amenities) only some of the units would be set aside for public-housing residents. The unsurprising result is more public-housing residents than available CHA properties.

The CHA issued vouchers for displaced CHA residents (as well as for those CHA residents who chose vouchers at the time of the high-rise demolitions). Vouchers are less expensive than new CHA construction and have a comparatively stable source of federal funding from Section 8 of the Housing Act of 1937. In 2016 the CHA managed 46,823 clients in the Housing Choice Voucher program—a notable increase from even one year earlier, when 44,773 CHA residents held vouchers (CHA 2015 at 20; CHA 2016 at 19). The program advertises that “families can use their vouchers to rent a house or apartment in the private market throughout the city of Chicago, and the CHA pays a portion of eligible families’ rent each month directly to the landlord” (CHA “HCV”).

In order to understand the ties of the Housing Choice Voucher program to neoliberalism, it is necessary to first compare how the experience of voucher holders diverges from the experience of other CHA residents (Prasad 99). Voucher holders, like other CHA residents, are subject to a review process by the CHA (CHA “HCV”). Unlike other CHA residents, voucher holders must find their own apartments on the private market—a task complicated by illegal discriminatory renting practices and stringent CHA housing inspections, which discourage landlords from participating in the program (Jackson 205). If residents are unable to find housing by a set deadline, they forfeit their voucher to the next person on the HCV waitlist of 42,506 people (CHA 2016 at 20). Although it is possible and fairly common to apply for extensions, HCV participants still lament the short amount time they have to find a new unit (Bowean).

By shifting the burden of finding housing from an organization (the CHA) to the individual the voucher program aligns with neoliberal

ideology, which “involves a focus on individual responsibility rather than social structures” (Spalding 27–28). With the rise of neoliberalism, the United States increasingly stigmatized welfare programs as free handouts: “The United States leans away from cash benefit programs such as TANF and SSI, and puts greater emphasis on programs such as... the Earned Income Tax Credit (EITC), regardless of the fact that research on in-kind benefit programming has been inconclusive, contradictory, and mixed at best” (Haymes et al. 236). The CHA convinced the public that voucher participants—even though they receive subsidized rent for apartments on the private market—do not receive free government handouts because the participants pay 30 percent of their income to their landlord in rent.²

Methods

I gathered research for this paper using qualitative methods, including participant observation and interviews. I conducted twenty interviews, each about one hour in length, with people connected with the Housing Choice Voucher program. I developed interview questions after grounding myself in historical, theoretical, and legal frameworks: I explored Chicago’s history of racial segregation, the theory of concentrated poverty and its intertwinement with stigma, and the legal consequences of the *Gautreaux* cases. I asked questions categorized within six central topic areas: the interviewee’s organizational role, the privatization of subsidized housing, barriers to securing housing under the voucher program, contemporary implications of *Gautreaux*, assessment of the voucher program, and policy recommendations for the future. I interviewed legal-aid attorneys working in the areas of voucher preservation

2. “The conventional 30 percent of household income that a household can devote to housing costs before the household is said to be ‘burdened’ evolved from the United States National Housing Act of 1937” (Schwartz and Wilson, 1)

and housing discrimination, Housing Choice Voucher participants, fair-housing advocates and organizers, and academics.

Participant observation involved attending meetings of the Housing Choice Voucher Working Group of the Chicago Area Fair Housing Alliance, a nonprofit consortium of advocacy organizations, government agencies, and municipalities. I contacted people on the attendance list of my first meeting and then asked my initial contacts to connect me with others. All interviews but one were recorded and transcribed. I took handwritten notes during the conversation with the non-recorded interviewee. Interviewees could choose to identify themselves in a variety of ways: full name and employer, by employer alone, by field of occupation, or anonymously. Everyone agreed to be identified by occupation (a legal-aid attorney, an academic, an advocate, an HCV participant). I qualitatively coded the interview transcripts into four groups, each identified by the field of occupation of its interviewees. I identified points of consensus within a field and across fields. These recurring themes became the categories within which I organized my analysis. I also noted responses that differed significantly from points of consensus: these responses revealed where an interviewee's unique experiences or position may provide her or him insight that is unknown to others (even those knowledgeable about the voucher program, as all interviewees were). Because I was the sole transcriptionist and qualitative coder, there is the potential that my singular interpretation of the data limited the resulting analysis. This could be resolved by including a second qualitative coder, but it would then become necessary to establish standards for inter-coder consistency.

Analysis of Qualitatively Coded Interviews

The Housing Choice Voucher Program: Noble Intentions Coupled with Significant Barriers to Usage

I asked a framing question about the HCV program's intentions throughout the course of my interviews, and the answers consistently revealed two main points. The primary objective of the HCV program was to replace high-rise public housing with subsidized housing on the private market. The second objective of the program was to provide participants choice about where to live within the city of Chicago.

One HCV participant continuously interrupted her own description of the program to relay stories about when she used to live in Cabrini-Green. "It sure did have its problems," she commented, "but inside Cabrini we were a community. When the buildings came down and people scattered, we lost something more than our homes." Erana Jackson Taylor, a housing organizer at the Kenwood Oakland Community Organization, explains that displaced public-housing residents were promised a right to return. Taylor emphasized that the right to return was perceived by residents at the time as a "guarantee from the CHA for housing support in the future equivalent to [that which] had been removed." As they would come to realize, residents who were living in a CHA public-housing unit on October 1, 1999, were promised a right to return to "CHA housing"—an umbrella term that includes both residents in CHA buildings and Housing Choice Voucher participants. A legal-aid attorney specializing in voucher preservation revealed that "although some former public-housing residents chose HCVs from the beginning, others were unexpectedly thrust into the HCV program when the CHA failed to build as many new units as the number which had been demolished." When the CHA moved toward mixed-income housing developments, it increased its usage of vouchers, lauding them as a less expensive and more consistently fundable replacement than CHA-managed housing.

Michelle Gilbert, a supervisory attorney with the Housing Practice Group at the Legal Assistance Foundation, described the second objective of the program: “At its most basic level, a voucher is intended to give participants choice about where to live... In theory, the voucher can be redeemed anywhere in the city without rendering the HCV participant cost burdened.” Generally, the participant pays 30 percent of their income to the landlord, and the remainder of the rent is covered by the CHA.

Housing experts acknowledge that the reality of program participants, who experience significant barriers to HCV usage, deviated from the noble intentions of the voucher program. When asked about barriers to use, almost half of interviewees deflected the question. Instead, they discussed the number of people participating in the voucher program compared to the larger number of people outside the program with housing instability. Ann Hinterman, a housing specialist for Joe Moore, alderman of the 49th Ward, lamented the shortage of affordable housing in Rogers Park: “One of the most common requests that we get from constituents is assistance finding affordable housing.” Hinterman, an active member of the Chicago Area Fair Housing Alliance who is thoroughly familiar with the workings of the voucher program, said “there just are not enough vouchers.” For Andrea Juracek, the associate director at Housing Choice Partners, “the waitlist is closed, the need for affordable housing is pressing, and the number of vouchers being dispersed is not rising to meet the demand.” This message stuck with me throughout the course of my research: although the complexity of the HCV program is important to analyze, it is also necessary to remember the hundreds of thousands of low-income renters in Chicago who remain cost burdened without realistic hope of ever receiving rental assistance in any form from the CHA.

There was overwhelming consensus among interviewees that even for the 46,823 people who receive a voucher (CHA 2016 at 19), significant financial and nonfinancial barriers remain. One financial barrier was the use of overly broad geographic zones to calculate fair-market rents, which led to inaccurate rates for North Side neighborhoods. A legal-aid

attorney who practices housing law commented that “the fair market rents, as calculated, have maximum payouts that effectively exclude HCV residents from Chicago’s most affluent neighborhoods.” Kenneth Gunn, the first deputy commissioner at the Chicago Commission on Human Relations, explained: “The fair-market rent calculations are made too broadly to accurately reflect the price of housing in, for example, neighborhoods on the North Side of the city.”

Esther Choi, a staff attorney with the Chicago Lawyers’ Committee for Civil Rights Under Law, discussed another financial barrier to voucher usage: “HCV participants are required to pay for their own background and credit checks when they apply for a unit... HCV participants are repeatedly told no to renting a unit and must apply to more than triple as many units to find one that will accept them [compared with market-rate renters].” Jessica Schneider, another staff attorney at the Chicago Lawyers’ Committee, added: “High security deposits and nonrefundable move-in fees together create a financial barrier to using a voucher to actually find and move into a home... Move-in fees and high security-deposit payments require either savings or the flexibility to allocate much of a paycheck in a specific week to a single large expenditure.” For many HCV participants, neither of these options are readily accessible.

Nonfinancial obstacles were no less significant or problematic. Katie Ludwig, the CHA’s chief office of the Housing Choice Voucher program, pointing to a recurring complaint from landlords that the CHA’s unit inspection process is too slow and too stringent. One HCV participant said “from the time you tell the landlord you want to live in the unit to the time when you can actually move in, months and certainly weeks can pass... There is a long wait to get a CHA inspector out to the property, and then once they’re there they find every tiny problem that nobody cares about and force the landlord to fix it. It’s no wonder [landlords] don’t want to rent to [voucher holders].” An investigator at the Chicago Commission on Human Relations indicated that the HCV program uses taxpayer money to fund private landlords and must meet a high standard: “You can just imagine the headlines and negative press

if it turned out the CHA was paying private landlords for HCV participants to live in substandard housing.”

Another nonfinancial barrier is the short amount of time that HCV participants have to find an apartment. Juracek, an advocate who helps connect voucher holders with affordable housing, said “HCV participants often have ninety days to find a new apartment, apply for it and be approved, and agree on lease terms with the landlord... Ninety days seems at the outset like a long time, but HCV participants often struggle to find a landlord and unit combination that will work at the prices the CHA is able to pay. Ludwig, the CHA officer, said that HCV participants can receive “a [moving] extension in one or more increments not to exceed sixty calendar days, upon written request from the participant.” All of the HCV participants, except one, knew about the extension, but two mentioned that “the requirement to send a written request can be hard if you’re not in a place with stamps and envelopes and a post office nearby.” As a result, an option meant to bring flexibility to moving process could be thwarted by something as simple as the lack of a pen, paper, stamp, or envelope; the written requirement also carries an assumption of literacy.

The most significant nonfinancial barrier is the stigma and prejudice against voucher holders. Taylor, the housing organizer, voiced poignantly what many others expressed as well: “There’s this underlying belief among landlords that if you’re on Section 8 then you’re poor, if you’re poor then you’re lazy, and if you’re lazy then you won’t be respectful of the property or pay your rent on time.” According to the investigator at the Chicago Commission on Human Relations, landlords assume that “HCV participants bring crime and chaos, disrupting community expectations and standards.” Eve Ewing, an assistant professor at the University of Chicago’s School of Social Service Administration, thinks landlords’ responses to renters with vouchers varies: “Although sometimes this is a conscious bias... often it is just a vague sense of distrust that guides landlord actions.” The often irrational subconscious nature of landlord stigma makes it difficult to combat. Allison Bethel, the director of the Fair Housing Legal Clinic

at the John Marshall Law School, said “stigma runs deep, and logic and evidence are often ineffective in the face of unwarranted belief.”

Source-of-Income Housing Discrimination

Source-of-income discrimination is illegal in Cook County, including in Chicago. Jason Jones, an investigator at the Cook County Commission on Human Rights, explained that “the unfair treatment of prospective tenants as a result of their status as HCV program participants” is a form of housing discrimination. Choi, attorney and advocate, indicated that the absence of housing discrimination laws at the state and federal levels “limit what court a source of income case can be tried in, thereby restricting the ability of legal-aid attorneys to gain more expansive and reliable source of income protections for their clients.”

Despite legal protections in Cook County, source-of-income discrimination against HCV recipients persists. According to JoAnn Newsome, the director of Human Rights Compliance and Fair Housing at the Chicago Commission on Human Relations, one of the most consistent problems in enforcing source-of-income protections is “ignorance on the part of both tenants and landlords about their respective rights.” Jones, the investigator, explained that “while source-of-income protections have long been in place in Cook County, since 1993 those protections have explicitly excluded HCV program participants.” According to Jones, only on May 8, 2013, did Cook County add HCV participants to the list of protected groups: “Starting on August 8, 2013, landlords could no longer legally refuse to rent solely on the basis of an applicant’s status as an HCV program participant.” According to Bethel, director of a legal clinic, in the absence of any marketing campaign to notify landlords and tenants of this change in the law, three years later there remains confusion as to what constitutes illegal source-of-income discrimination: “Some landlords discriminate against HCV participants although they would not do so if they were aware it was illegal, and many tenants are not

aware of what constitutes legally recognized housing discrimination.” As a result, many cases of source-of-income discrimination go unreported.

I asked interviewees would the incidence of discrimination be reduced if landlords and tenants operate in a space of perfect awareness about source-of-income discrimination regulations? Would the percentage of reported discrimination cases increase dramatically? An investigator at the Chicago Commission on Human Relations asserted: “Even if imperfect access to information about current laws was resolved, there would still be an alarming amount of source-of-income housing discrimination happening in Chicago and Cook County.” Interviewees thought that for voucher holders the cost of reporting discrimination outweighed the benefit and that landlords could, therefore, afford to take the risk of discriminating.

City residents must file formal housing discrimination complaints with the Chicago Commission on Human Relations, and residents of suburban Cook County file with the Cook County Commission on Human Rights. Staff members in the two organizations explained why housing discrimination continues to go underreported. Gunn, a Chicago commissioner, said “the source-of-income discrimination complaint process typically takes around fourteen months from the time an HCV participant calls our office to the time a decision is reached as to whether or not discrimination occurred. . . [The complainant must] continuously communicate with the investigator assigned to the case.” Newsome, a Chicago commissioner, added: “When you consider the formality of the requested responses and the stringency of the timeline, when you consider how many times the complainant will be asked to verify and recount a situation of being discriminated against, it is not difficult to understand why some people choose not to file a complaint even if they are aware they have been the victim of source-of-income discrimination.” Jones, a Cook County commissioner, added: “Besides, even if the ultimate findings side with the complainant and acknowledge that housing discrimination took place, the tangible benefits associated with the ruling are minimal.” For the HCV participant, filing a formal complaint takes too long and

is too complicated to gain access to an apartment from a discriminatory landlord; the commissions do not force landlords to rent the unit (which is usually by that point occupied by someone else) to the complainant; and complainants are not typically awarded significant compensation. The landlord is on the radar of the regulatory agency, but that may only benefit future HCV participants who must also file formal complaints.

Several programs aim to lowering source-of-income housing discrimination. Bethel, director of John Marshall’s legal clinic, said that fair-housing testing “determine[s] how landlords react to different prospective tenants” by using testers who “present as an HCV participant and then note the landlord’s reaction and contrast it with what happens when another fair-housing tester inquires about the same unit but presents as a market-rate renter.” When an HCV participant is told the unit is already taken and a market-rate renter is told the unit is available, the legal clinic calls landlords and informs them about source-of-income discrimination laws. The hope is that educated landlords will not discriminate in the future.

Some organizations have embarked on marketing campaigns to raise landlord awareness. An investigator said that the Chicago Commission on Human Relations calls landlords that were brought to the commission’s attention by HCV participants who decline to file a formal complaints. These phone calls “are intended to notify the landlord about the law without specifically accusing them of wrongdoing.” According to Jones, the Cook County Commission on Human Rights adopted this practice more than a year ago: “Some landlords are genuinely swayed away from continuing to discriminate just by being made aware of its illegality.”

To avoid landlords frustration with CHA inspections, Ludwig said “the CHA is considering a reform that would pay landlords one month’s rent for the period between when an HCV participant indicates intent to move into the unit and when a CHA inspector approves the unit for habitability by the HCV participant.” If implemented, the policy would address a common landlord complaint—they are forced to leave a unit unoccupied during the CHA inspection process.

The Mobility Program

The Mobility Counseling Program is intended to enable HCV families with young children to move into “opportunity areas.” According to Schneider, an attorney and advocate, “the mobility program serves as a key example of how vouchers are in theory a pathway to residence in neighborhoods with greater access to resources and higher quality education.” Ludwig, the CHA officer, stated that “the CHA defines opportunity areas as census tracts with less than 20 percent of its individuals with income below the poverty level and a less than 5 percent concentration in subsidized housing.” The program provides supplementary counseling and support to aid low-income families with young children in their transition into higher-income neighborhoods.

A legal-aid attorney who practices housing law adding that “the mobility program, perhaps more than any other recent policy decision by the CHA, supports on a theoretical level the socioeconomically integrated neighborhoods that recent proponents of mixed-income housing have lauded.” HCV participants are less enthusiastic about the programs lofty goals. Gilbert, an attorney and advocate, explained that “many HCV families who were offered the opportunity to move to opportunity areas declined to participate,” choosing instead to stay in on the South and West sides of the city.

Professor Ewing offered one reason why HCV participants are loyal to their communities: “If generations of family members have attended a specific school, then that school has become part of the fabric of familial life.” General promises of higher quality education will not convince this population to move to an opportunity area. Housing experts also point to the importance of informal social-support structures in determining a family’s location. According to Betsy Shuman-Moore, the director of the Fair Housing Project at the Chicago Lawyers’ Committee for Civil Rights Under Law, “especially in low income households, the support of extended family is absolutely crucial.” Extended family members who live nearby may be able to babysit, cook, clean, or drive. Mary Rosenberg,

a staff attorney at Access Living, explained that “although the mobility program provides transition counseling about fitting into the new neighborhood, it does not replicate the expansive social support implicit in living near family... [Certain] populations may require additional support, including people who are disabled.” The mobility program narrowly targets families with young children, who most likely require their extended families. A legal-aid attorney specializing in voucher preservation commented: “Perhaps if the program were expanded to include adults without children, a more mobile population capable of more easily separating from community support structures, then it would see a more enthusiastic response and increase in take-up rates.”

Policy Reform Proposals

With significant barriers to voucher usage, housing discrimination, and a flawed mobility program, HCV participants do not always find housing stability that many assume comes with acceptance into CHA housing. The majority of interviewees acknowledged these barriers and recommended improvements, including education, streamlined procedural bureaucracy, targeted responses to barriers to voucher usage, and structural reforms.

Education centered primarily on raising awareness of the law. New-some, a government agency officer, indicated that “a mandatory know-your-rights-and-responsibilities workshop for all landlords in Chicago would provide a ubiquitous way to disseminate information about anti-discrimination source-of-income regulations.” Gunn and Jones, Chicago and Cook County commissioners, respectively, supported informal calls to landlords accused of source-of-income discrimination to notify them of the law and engage in a conversation about changing future behavior before a complainant brought a formal complaint. An HCV participant recommended that participants receive “more explicit information about what source-of-income discrimination is and how to recognize if it is happening to you.”

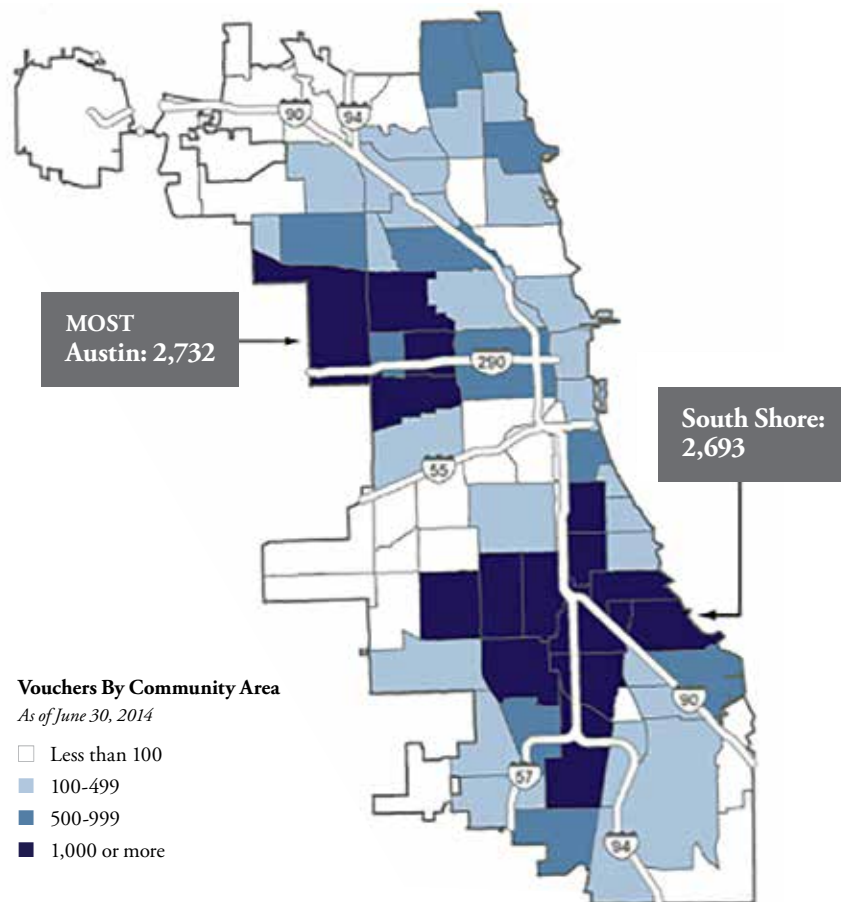
Regarding streamline procedural bureaucracy, an especially disgruntled HCV participant admonished the investigation process of source-of-income discrimination, calling it a “year-long goose chase that led nowhere, proved nothing, was extremely time consuming, and did not succeed in changing the landlord’s behaviors.” Hinterman, a Chicago ward staffer, indicated that a streamlined CHA inspection process would “do wonders to reduce experienced rates of housing discrimination against HCV participants.” Ludwig’s discussion of the CHA proposal to pay landlords a month’s rent as compensation for the length of the inspection process is intriguing. Juracek, a housing advocate, and a legal-aid attorney specializing in voucher preservation want the CHA to provide better customer service and accurate information that would prevent clients from wrongfully losing their access to vouchers: “Clients will call the CHA to ask a simple question and end up waiting in long queues only to receive contradictory information from uninformed and frequently impolite staff members.” One HCV participant recounted how the CHA denied losing her moving papers three times: “If each CHA resident had a single case manager assigned to them, communication would be much clearer and more consistent than it is now.”

Regarding barriers to voucher usage, a legal-aid attorney who practices housing law described the incredible impact of a prior eviction: “When landlords run background checks and look for a past history of eviction, they are using evidence of an eviction case being filed as an assumption of guilt. Even if the case was ultimately dismissed, the mere act of it being filed has the same effect on future housing prospects as an Order of Possession.” One HCV participant, who was continually denied apartments based on a thirty-year-old eviction case, proposed a ten-year limit to eviction records on background checks: “If you have changed yourself and stayed changed for a decade, chances are you’re not going back to your old ways.” Schneider, an attorney and advocate, focused on financial supports, including CHA “funding for the move-in fees and background check fees that HCV participants are currently expected to pay out of pocket.”

The final group of reform proposals was structural changes intended to alter law and public opinions. Choi, an attorney and advocate, proposed “adding source-of-income protections to the Fair Housing Act of 1968... The patchwork geographical protection against source-of-income discrimination exacerbates confusion about the law and harmfully restricts attorneys’ ability to try cases in the most appropriate level of court.” Choi asserts that trying source-of-income cases in state and federal court by reclassifying them as racial discrimination is “imprecise and offensive to the importance of source-of-income protection in its own right.” Taylor, a housing organizer, argued for the importance of “rent control as a means of artificially preserving the rapidly declining stock of affordable housing in Chicago.” Based on the success of rent-control policies in New York City, Taylor has devoted much of 2015 to advocating for a similar rent-control policy in the neighborhoods of Kenwood and Oakland where her organization works. An HCV participant suggested an ambitious campaign to change public opinion about HCV recipients. Targeting the widespread stigma that feeds bias and housing discrimination is the most fundamental of all the reforms proposed, because it underlies the arguments and the efficacy of every other proposal.

Conclusion

Gautreaux left a long shadow on the history of public housing. But was a case that was meant to reduce segregation in public housing successful? At a recent Chicago Area Fair Housing Alliance meeting, professionals in the Chicago housing organizations discussed the administrative difficulties associated with using vouchers in the private renting market: vouchers must be redeemed within a few months from the time they are issued; discrimination against voucher holders often goes unreported; and the majority of voucher users live in poor, predominantly African American neighborhoods on the South and West sides (Bentle 2014) (see Map 2).



Map 2: Vouchers By Community Area

(Bentle)

Gautreaux required the CHA to desegregate its public housing, which many at the time imagined would involve building new public housing in predominantly white areas. Facing backlash from aldermen of predominantly white wards and white citizens who filed a counter case, the CHA found implementing the reforms outlined in *Gautreaux* difficult. The public stigmatization of public-housing residents, neoliberal ideology, and the rhetoric of concentrated poverty as an illness led to the Plan for Transformation, which included the demolition of high-rise public-housing buildings and the dispersal of CHA residents. The CHA used the Housing Choice Voucher program to provide housing for people without bearing the burden of finding the housing or negotiating the price. Additional support services that the CHA offers to public-housing residents are not offered to HCV participants. By emphasizing individual responsibility for securing housing, the voucher program attempted to remove stigma attached to welfare, which is categorized by many as a hand-out. Nonetheless, the institutionalized racism that prompted *Gautreaux* still exists today in Chicago's system of subsidized housing.

Conversations with legal-aid attorneys, Housing Choice Voucher participants, housing advocates and organizers, and academics have revealed the complexity of the current voucher system. The CHA and others laud vouchers for providing housing on the private market and giving recipients geographic choice about where to live. Other experts lament the shortage of affordable housing in Chicago and the shortage of vouchers—there are 42,506 people on the HCV waitlist, which was last opened to new applicants in 2014 (CHA 2016 at 20). Yet even for voucher holders, credit and eviction-notice checks, high security deposits, and move-in fees create financial barriers for many HCV recipients. Some landlords discriminate against HCV participants for economic (source-of-income) and social reasons; while other landlords wish to avoid CHA inspections that delay occupancy of rental units.

From 2003 to 2013 the Chicago Commission on Human Relations received 773 complaints of housing discrimination (Applied Real Estate Analysis 119). Of these complaints, 49 percent were source-of-income

discrimination and 45 percent involved a refusal to rent/lease (Applied Real Estate Analysis 119). Many cases of housing discrimination go unreported, making the true severity of the problem difficult to assess. Housing experts attribute discriminatory behavior to ignorance on the part of both tenants and landlords about their respective rights, the length of investigations, and inadequate compensation or punishments. In response, legal-aid clinics have expanded income testing, and some organizations are educating landlords and tenants about the law. The CHA, for its part, has responded by proposing to cover one month of rent for inspection.

The Mobility Counseling Program, which is intended to help HCV families with young children move into “opportunity areas,” is flawed. Because the mobility program is not paired with childcare subsidies, families often choose to remain in poor neighborhoods that are nonetheless rich in social connections and informal childcare from family and friends. The mobility program raises questions about the social intentions of the CHA: is the goal to house the most impoverished Chicagoans in inspected apartments? Or, is the goal to prevent intergenerational poverty for certain families by housing them in middle-class neighborhoods with better-ranked schools and low crime rates? The answer is probably somewhere in the middle. I asked the CHA several times for a list of legislative priorities after an employee mentioned that such a list existed. They did not respond to my requests.

Despite the problems facing the Housing Choice Voucher system in Chicago, the majority of my interviewees—the legal-aid attorneys, Housing Choice Voucher participants, housing advocates and organizers, and academics—remained steadfast in their optimism about the future. This optimism was not the result of naivete, but of belief in the importance of housing as a human right and the conviction to keep fighting for increased housing stability among Chicago’s poorest residents. In addition to providing direct legal and supportive services, housing experts advocated for substantive policy changes. Many pointed to simple ignorance and proposed better education, such as know-your-

rights-and-responsibilities workshops for landlords and tenants. Streamlined inspections, clearer communication between the CHA and tenants, and the eradication of old eviction records would remove specific barriers to usage for HCV recipients. Other housing experts focused on structural changes: adding source-of-income protections to the Fair Housing Act of 1968, expanding the number of vouchers, and implementing rent control. The current political climate makes structural reforms unlikely and narrowly targeted local proposals retain a higher chance at successful passage and implementation.

Regardless of the specific policy reforms that different housing experts support, they agreed that the barriers to usage for HCV participants are too high and the legal processes to combat housing discrimination are insufficient. There is also the persistent underlying problem of stigma surrounding recipients of subsidized housing. Until the societal norm of blaming the poor for their poverty changes, housing reform that goes sufficiently far to cultivate housing stability for Chicago’s poorest residents remains infeasible.

Appendix: Interview Guide

Interview Guide

The Aftermath of the Gautreaux Court Cases: Housing Discrimination and a Shift toward Housing Choice Vouchers in Chicago

Valerie Gutmann

Department of Sociology, University of Chicago
SBS IRB No. 16-0956

Thank you for agreeing to be interviewed. Just to be clear, I will be asking about Chicago's Housing Choice Voucher program. I am most interested in understanding your perspectives about housing discrimination.

In addition, I hope to gain a better understanding of how legal experts, policymakers, advocates, and others think about the ability of public housing residents in Chicago to reside in affordable, quality, conveniently located homes. For the purpose of this study, I am looking at the privatization of subsidized housing and barriers to housing access for HCV program participants. I am also interested in the contemporary implications of the Gautreaux court cases.

Do you have any questions before we begin? *Have the interviewee sign the consent form, give a blank copy of the consent form to the interviewee for their own records, and clarify how the interviewee would like to be identified: by name? by organization? by category (legal experts, policymakers, advocates, and others)?*

A. Introduction and Organizational Role / 5 minutes

First, I would like to learn more about [name of organization] and your background.

1. What has been [name of organization] role in Chicago's Housing Choice Voucher (Section 8) program? (*probe: policy design, management, advocacy, oversight of implementation, etc.*)
2. Can you briefly describe your professional experience as it relates to the Housing Choice Voucher (Section 8) program?
3. What is the purpose of the Housing Choice Voucher (Section 8) program?

B. Privatization of subsidized housing / 15 minutes

I want to begin by talking about some of the reasons behind turning to the private sector to provide greater choice to low-income residents in Chicago via the Housing Choice Voucher (Section 8) program.

1. Do you believe an opportunity to rent in the private market offers better/different outcomes than residing in traditional family public housing? Senior public housing? At a mixed-income development?
2. How successful do you feel the private management of the Housing Choice Voucher (Section 8) program is? (*probe: for CHA? For residents? For the private sector? Etc.*)
3. If CHA regained control of the Housing Choice Voucher (Section 8) program and managed the program 'in-house,' do you think outcomes would change for residents? Why? How so?

C. Barriers to securing housing under the Housing Choice Voucher program / 15 minutes

In this next part of our conversation, I want to focus more closely the barriers that voucher holders face in securing a housing unit (*probe: discrimination, procedural issues, enforcement, inspections, and so on*)

1. What do you think is the most significant barrier to securing a housing unit for voucher holders? (*probe, based on response: what are some of the reasons landlords discriminate?*)
2. While the Fair Housing Ordinance is intended to prevent source of income discrimination, it is clear that voucher holders continue to face difficulties in securing housing under the Housing Choice Voucher (Section 8) program in Chicago. How can we better enforce the Fair Housing Ordinance?
3. What are some of the reasons that residents do not file discrimination complaints?
4. How can we educate landlords about their responsibilities under fair housing legislation more broadly?
5. Do you believe the current rent calculation mechanism in place at CHA is sufficient? (*probe: Fair Market Rent for the metro areas*) Would small-area fair market rents afford residents greater choice about where to use their vouchers? At what level should FMR be set, and at what geographic scale? Are there any alternatives to the current system?
6. Is the current system sufficient for voucher holders with accessibility needs? Should rent be calculated differently for these households?

D. Contemporary implications of the Gautreaux cases / 10 minutes

At this point, I would like to ask you about the contemporary implications of the landmark Gautreaux v. Chicago Housing Authority court case (and the later Hills v. Gautreaux Supreme Court case).

1. Do you see the Gautreaux court cases as being an important historical legacy that continues to shape contemporary housing policy in Chicago?
2. *If yes to 1)* In what ways has Gautreaux been integral in shaping this policy?
3. *If no to 1)* What have been some of the more important factors that have shaped contemporary housing policy in Chicago?
4. In your opinion, what specific components of the Gautreaux ruling were formative in the development of the Plan for Transformation and the Housing Choice Voucher program?
5. If the Gautreaux cases had not occurred, in what ways, if at all, do you think the HCV program would be changed? (*probe: existent? Non-existent? Reformed?*)

E. Assessment of the Housing Choice Voucher (Section 8) program and Policy Recommendations for the Future / 15 minutes

Finally, I'd like to ask you to step back and consider how you would assess the Housing Choice Voucher (Section 8) program as a whole.

1. What factors do you think contribute to the success and/or challenges of using vouchers in the private market? (*probe: In what ways are the unit inspections an asset or a detriment to the HCV program?*)
2. What is your sense of how the Housing Choice Voucher (Section 8) program has impacted the supply and demand of both affordable and subsidized rental housing?

3. Do you have any suggestions on alternative strategies that Chicago should consider in order to provide affordable housing for low-income residents?

4. We know that voucher dispersal strategies focus on income integration and that the majority of CHA residents are black. In what ways do you think race is relevant within the policy design and implementation of the Housing Choice Voucher (Section 8) program?

5. What policy recommendations about Housing Choice Voucher (Section 8) program reforms would you like to suggest to CHA, the city, or federal officials?

Thank you for taking the time to speak with me today. Before we finish up, are there any individuals that you would recommend I reach out to interview for this study?

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