

REFORMING WELFARE: THE CONSTRAINTS OF THE BUREAUCRACY AND THE CLIENTS *

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I. THE PROSPECTS FOR CHANGE

The Aid to Families with Dependent Children program (AFDC),¹ funded jointly by state and federal governments, has from its inception been primarily concerned with providing aid to families without fathers. Although the costs of the program and the number of beneficiaries have increased dramatically in recent years,² the fundamental character of AFDC remains unchanged. Efforts to revise the program either through legislation or administration have been notably unsuccessful.³ Neither the "NOLEO" amendment of 1950,⁴ nor the 1956 and 1962

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¹ 42 U.S.C. §§ 601-10 (1964), *as amended*, (Supp. IV, 1969).

² At present, more than 6.5 million persons receive AFDC benefits, or more than 60 out of every 1000 children. In 1955, the comparable proportion was only 30 out of every 1000 children.

Costs have also increased dramatically. Total expenditures for the 15 years between 1935 and 1950 did not exceed one half billion dollars. The total doubled between 1950 and 1960. From 1960 to 1967, another one billion in expenditures was added. Four billion dollars has been estimated as the cost of the program for fiscal 1970. *Hearings on Social Security and Welfare Proposals Before the House Comm. on Ways and Means*, 91st Cong., 1st Sess., pt. 1, at 120 (1969) [hereinafter cited as *Hearings*].

³ Legislative output has been meagre. In Wisconsin, the program took on its basic characteristics in the 1920's and remains essentially unchanged. For an analysis of the Wisconsin history, see Handler & Goodstein, *The Legislative Development of Public Assistance*, 1968 Wis. L. Rev. 414, 445-50, 456-60. The development of the federal program is described in G. STEINER, *SOCIAL INSECURITY: THE POLITICS OF WELFARE* (1966) [hereinafter cited as STEINER].

⁴ 42 U.S.C. § 602(a) (11) (Supp. IV, 1969). "NOLEO," or "Notice to Law Enforcement Officials," was an amendment passed by Congress in 1950 in reaction to the rising number of desertion cases on the then Aid to Dependent Children rolls. It requires welfare agencies to notify local law enforcement officials whenever aid is furnished to an abandoned or deserted child. Presumably, notification will trigger efforts to locate the absent parent. The purpose of the amendment was to induce a willingness on the part of the deserted mother to cooperate in the attempt to re-establish the father's responsibility for the family.

The NOLEO qualification had no relationship to need, citizenship, or residence. It increased the number of officials involved in the administration of the program, and in some instances induced the mother to deprive her child of welfare benefits rather than to acquiesce in legal harrassment of the father. See STEINER 114-18.

social service amendments,⁵ nor the 1967 WIN program⁶ has had more than a minor impact on AFDC, predictions at the time of enactment notwithstanding.

Complex administrative systems often remain stubbornly static despite the need for change. Previous efforts at welfare reform have depended ultimately on the attitudes of the welfare bureaucracy and the aid recipients. A change in these attitudes, although not foreseeable in the near future, is a precondition for any significant change in the welfare system. A sufficiently radical reform, such as a redistribution of income through a children's allowance system,⁷ could circumvent the welfare bureaucracy and drastically alter the attitudes of the recipient population; but sweeping change today appears unlikely. Instead, current reform proposals call for modest shifts of income to the poor and would require a recipient to satisfy numerous conditions to obtain assistance. For example, President Nixon's proposed Family Assistance Plan (FAP) has a means test, a work test, and social services.⁸ The proposed FAP payment levels are sufficiently low so that AFDC will have to remain in operation in at least forty-two states.⁹ Finally, although a new federal bureaucracy may administer the federal pro-

⁵ 42 U.S.C. §§ 602(a)(12)-(13) (1964), as amended, 42 U.S.C. §§ 602(a)(13)-(14) (Supp. IV, 1969). In 1956 and 1962, the Social Security Act was amended to append a social services component to AFDC. The states were authorized to furnish rehabilitative and other services to maximize individual capacities for self-support. The federal government reimburses the states for 50% of their AFDC expenditures, except in the area of service programs, where the federal figure is 75%. For a history of this legislation and its general ineffectiveness, see STEINER 34-47. For an empirical study of the actual administration of the social services established by the amendments, see Handler & Hollingsworth, *The Administration of Social Services and the Structure of Dependency: The Views of AFDC Recipients*, 43 SOCIAL SERV. REV. 406 (1969).

⁶ 42 U.S.C. §§ 602(a)(19), 630-44 (Supp. IV, 1969). The Work Incentive Program (WIN) was included in the 1967 amendments to the AFDC program. It consisted of four parts: (1) a ceiling on the proportion of children under 18 who would be eligible for AFDC (since repealed); (2) a work incentive program to increase the employment of AFDC recipients, administered jointly by the Departments of Labor and Health, Education, and Welfare; (3) a requirement that local welfare agencies supply day-care centers for the children of working mothers or trainees; (4) a liberalized tax treatment of recipient-earned income. For a full description of the WIN program, see Hausman, *The AFDC Amendments of 1967: Their Impact on the Capacity for Self Support and the Employability of AFDC Family Heads*, 19 LAB. L.J. 496, 506-07 (1968); Comment, *Public Welfare "WIN" Program: Arm-Twisting Incentives*, 117 U. PA. L. REV. 1062 (1969). See generally PRESIDENT'S COMM'N ON INCOME MAIN'T PROGRAMS, POVERTY AMID PLENTY: THE AMERICAN PARADOX 57-75 (1969).

⁷ Examples of different approaches include a credit income tax, a children's and adult's allowance, and a negative income tax. An analysis of these plans is provided by Tobin, *Raising the Incomes of the Poor*, in AGENDA FOR THE NATION 77, 105-14 (K. Gordon ed. 1968).

⁸ H.R. 16311, 91st Cong., 2d Sess. §§ 101-02 (1970). An explanation of the provisions of the Family Assistance Act of 1969 may be found in *Hearings* 49-63.

⁹ The basic level of support for a family of four under FAP would be \$1600. States presently disbursing benefits above \$1600 would be required to make up the difference between the federal floor and the present state level to assure maintenance of the AFDC recipients' current income. Only 8 states distribute less than \$1600 annually. See *Hearings* 126.

gram, this task may well be delegated to existing state welfare agencies in conformity with the prevailing pattern in welfare programs.¹⁰ Thus, FAP promises no profound change in the basic structure of the present welfare system.¹¹

One version of the final chapter of a study of AFDC that we conducted, this Article presents our views of the major characteristics of the welfare bureaucracy and the welfare recipients in relation to the problems of welfare reform.¹²

II. METHODOLOGY

The primary data for this study were survey responses from 766 Wisconsin AFDC families interviewed in six counties.¹³ A second series of interviews was conducted with families who had terminated AFDC payments approximately two months earlier. Interviews were also conducted with state officials, county welfare directors, and case-workers.

The sample was drawn from the March 1967 AFDC payment records of the Wisconsin State Department of Health and Social Services (State Department). Because AFDC has always been pri-

¹⁰ The Family Assistance Act does not indicate whether the states or the federal government will administer the program. *See id.* 77.

¹¹ *But see* N.Y. Times, Nov. 16, 1969, at 32, col. 1, in which Daniel P. Moynihan, a principal advisor to President Nixon, expressed concern about the lack of support for the President's proposed welfare reform and called the proposed FAP legislation "epic." This view contrasts sharply with Moynihan's earlier views, from a more academic perspective, of the prospects for welfare reform:

What we can do is to improve it somewhat. It is an American fault to insist on extravagant goals—as if to set out to achieve anything less than everything suggests a lack of sincerity, manliness, or both—and to be exceedingly busy with other matters when it subsequently develops that little or nothing happened. The social history of the 1960's is already littered with the wreckage of crash programs that were going to change everything and in fact changed nothing, save possibly to diminish ever so slightly the credibility of those who claimed in advance for the achievements that never, somehow, came to pass.

Moynihan, *The Crisis in Welfare*, 10 THE PUBLIC INTEREST 3, 6 (1968).

¹² The study is scheduled to be published under sponsorship of the Institute for Research on Poverty of the University of Wisconsin as a book entitled THE "DESERVING" POOR: A STUDY OF WELFARE ADMINISTRATION. Most of its chapters have been published as articles reporting the data from which the conclusions of this Article have been drawn. Handler & Hollingsworth, *Stigma, Privacy, and Other Attitudes of Welfare Recipients*, 22 STAN. L. REV. 1 (1969); Handler & Hollingsworth, *The Administration of Welfare Budgets: The Views of AFDC Recipients*, 5 J. HUMAN RESOURCES 208 (1970); Handler & Hollingsworth, *The Administration of Social Services and the Structure of Dependency: The Views of AFDC Recipients*, 43 SOCIAL SERV. REV. 406 (1969); Handler & Hollingsworth, *How Obnoxious is the "Obnoxious Means Test"? The Views of AFDC Recipients*, 1970 WIS. L. REV. 114; Handler & Hollingsworth, *Work, Welfare, and the Nixon Reform Proposal*, 22 STAN. L. REV. 907 (1970); Handler & Goodstein, *supra* note 3. *See also* Handler, *Justice for the Welfare Recipient: Fair Hearings in AFDC—The Wisconsin Experience*, 43 SOCIAL SERV. REV. 12 (1969).

¹³ Three of the counties, Milwaukee, Dane, and Brown, contained a large or moderate sized city. The other three were primarily rural.

marily concerned with households headed by mothers, an attempt was made to exclude from the sample those families in which a father was present. Because many of the questions centered on quality, quantity, and evaluation of client-caseworker-agency relationships, only women who had been on the rolls for at least six months were included.¹⁴

In the two most urban counties, Milwaukee and Dane (Madison), proportional samples were drawn reflecting the distribution of AFDC recipients into "wed" and "unwed" categories. Within each category, a random sample was drawn that met the criteria outlined above. In Brown County (Green Bay), a random sample was selected. In the three rural counties, all AFDC recipients who had been in the program six months were asked to participate.

Each potential respondent was sent a letter requesting her cooperation in the study and informing her that she would be contacted by an interviewer. Refusal was accomplished by tearing off the bottom portion of the letter and returning it, in an enclosed stamped envelope, to the Wisconsin Survey Research Laboratory, which handled the drawing of the sample and all of the interviewing. Women who initially refused were contacted again by letter and asked to reconsider; several thereupon agreed to be interviewed.

The interviews, lasting approximately one hour, were taken in the summer and fall of 1967. Respondents were paid three dollars for the interview. Coordinated and trained by the Wisconsin Survey Research Laboratory, interviewers were usually residents of the community in which the respondent lived. Approximately eighty percent of those approached agreed to be interviewed.¹⁵

Evaluation of survey responses is always subject to uncertainty. Partly as a check on the validity of this data and partly to determine the effect of terminating welfare, the women who had left the program were again interviewed approximately two months later. Again, women were approached by letter from the Wisconsin Survey Research Laboratory, and interviewed this time for approximately thirty minutes.

Great internal consistency was evident in the responses, including the responses of the women interviewed after leaving welfare. The data and responses analyzed here appear to be consistent with the few

¹⁴ The decision to base the sample on comparatively long-term recipients introduces some bias into the study. Although respondents had more experience with caseworkers and a more prolonged exposure to the welfare mechanism than short-term recipients, they might also have had a higher incidence of loss of memory or of repression of bad experiences. These recipients may have already made some adjustment to welfare.

¹⁵ The question arises whether that portion of the AFDC population which voluntarily agreed to the interview process is significantly different from that which refused. This is, of course, impossible to discover, but between the agreeing and refusing groups only slight differences were found in regard to age, race, number of children, time in the AFDC program, and marital status.

available studies of AFDC recipients in other parts of the country, particularly New York City.¹⁶ This consistency, as will be pointed out below, is a result of uniform characteristics of welfare systems throughout the country; for this reason, the welfare administration in Wisconsin seems sufficiently representative to serve as a model for an examination of the essential elements of the welfare system—the welfare bureaucracy and the welfare recipients.

III. THE WELFARE BUREAUCRACY

A. *Decentralization: Contributing Factors*

The single most important characteristic of the welfare bureaucracy is its decentralized structure. In about half the states, AFDC is administered by county departments of welfare and supervised by state agencies. Because a county-administered system was studied, the conclusions drawn from this data are technically limited to a county system. But, for reasons to be discussed shortly, decentralization is also a major characteristic of state-administered systems. Certain aspects of the welfare system foster decentralization while opposing factors tend to produce uniform results despite decentralization.

Four major factors contribute to decentralization in welfare administration: (1) the jurisdictional division of authority; (2) the structure of welfare rules; (3) the nature of the work of the agency; and (4) the problems of supervision and control.

1. Division of Authority

In Wisconsin, county departments of welfare are not merely adjuncts of the State Department, but separate entities retaining substantial authority and political influence over welfare matters in the state legislature. Except during the late 1930's, when federal concern was pronounced, the legislature has refused to make major jurisdictional changes in the allocation of power between the counties and the State Department. Subsequent centralization of state power has occurred as a result of opinions of the attorney general, federal pressure, and various administrative practices, such as consultation, liaison work, and state-run training sessions. Whether because of the political power of the county government or governmental inertia, the legislature has declined to alter county-state division of authority. In fact, state officials acknowledge that converting Wisconsin to a state-

¹⁶ See Briar, *Welfare From Below: Recipients' Views of the Public Welfare System*, in *THE LAW OF THE POOR* 46 (J. tenBroek ed. 1966); H. Yahr, R. Pomeroy, & L. Podell, *Studies in Public Welfare* (mimeograph by the Center for the Study of Urban Problems, City University of New York).

supervised system is "out of the question" at the present time.¹⁷ Decentralization is in part the result of the legislative tendency—certainly not unique to Wisconsin—to avoid intervention.¹⁸

The implementation of welfare policy thus rests with county departments characterized by individualized procedures and primarily responsive to their political governing body, the county board of supervisors, which in turn is responsive to the local community. The county welfare directors emphasized in interviews how important they felt local groups were.¹⁹ The state agency—the State Department—does exercise some countervailing pressures towards uniformity. From time to time it examines records and reports and examines particular county agencies. It also consults on the appointment of new county welfare directors and establishes statewide standards for personnel. Although the extent of state agency influence varies from county to county, the realization that counties and their departments of welfare are independent centers of political power working in a local context is the first step toward understanding administrative decentralization in the welfare bureaucracy.

2. The Structure of Welfare Rules

The system of welfare rules facilitates decentralized administration in the welfare bureaucracy in two ways. First, some rules specifically grant authority to county welfare departments: for example, the legislature has explicitly recognized the discretionary authority of county departments to deal with employment problems of AFDC recipients.²⁰ Second, vague and indefinite rules require the local authorities to exercise varying degrees of discretion. The dominant characteristic of welfare legislation is its high level of abstraction. AFDC statutes usually leave undefined even the most basic elements of the programs: standards for need, level of benefits, contributions from responsible relatives, moral conditions of welfare parents, availability and application of social services.

¹⁷ The history of Wisconsin's welfare system is described in Handler & Goodstein, *supra* note 3, at 441-43, 452-60.

¹⁸ See Friedman, *Legal Rules and the Process of Social Change*, 19 STAN. L. REV. 786, 828-37 (1967).

¹⁹ The results of these interviews will be reported in chapter two of the forthcoming book, but they are now available in mimeographed form: *Communities, Agencies, and Clients, 1969* (Institute for Research on Poverty, University of Wisconsin).

²⁰ The county agency [department of welfare] may require the mother to do such remunerative work as in its judgment she can do without detriment to her health or the neglect of her children or her home

WIS. STAT. § 49.19, cl. 6 (1967).

Welfare statutes are vague partly because welfare problems are seldom susceptible to objective, clearly defined solutions, and are often best resolved on a case-by-case basis. Vagueness also often reflects the power confrontation between state and local governments and the legislative practice of avoiding issues involving intergovernmental or moral conflicts. Most important, substantive welfare issues raise precisely the issues that politicians try to avoid. Legislatures may speak in abstractions, but administrators must implement programs with specific decisions. Thus vague legislative rules effectively delegate decisionmaking authority to the administrators. In this manner, Wisconsin administrative agencies have been granted the authority to decide need, benefits, moral conditions, employment, and many other issues.

Within the administrative system itself, vague rules produce similar decentralization. For example, although the Wisconsin State Department specifies in great detail the allowances for most items in the budget, rent allowances, a major portion of every recipient's budget, must only be "reasonable" in light of local conditions. Such an indefinite formulation vests discretion in local officials to determine reasonableness. Even when allowances are specified in fixed dollar amounts, the conditions for qualifying for the allowances are unspecified.

3. The Nature of the Work

Implementing welfare programs at the field level results in a decentralization of authority because of individual family needs and the professional response to those needs. The theory of the income-maintenance component of AFDC is to provide a fairly uniform subsistence grant with provisions for additional payments to meet special needs. Social services are also tailored to individual family needs. Official administrative policy recognizes that welfare families have different problems, will make different demands on the agencies, and should receive different treatment. Correspondingly, the regulations emphasize flexibility at the field level.

Social work philosophy also stresses individualized professional treatment. Although most public assistance caseworkers lack professional social work training, they adopt this professional position at least at the rhetorical level.²¹ Official and professional encouragement of individualized treatment, combined with varying qualities of administration, leads to different applications of particular rules by different

²¹Data on the characteristics and attitudes of the caseworkers is reported in *Communities, Agencies, and Clients*, *supra* note 19. For descriptions of professional social work philosophy, see STEINER 196-204; Handler & Hollingsworth, *The Administration of Social Services and the Structure of Dependency: The Views of AFDC Recipients*, *supra* note 12, at 412-19.

caseworkers. One caseworker might ask certain questions at intake or disclose the availability of certain special grants while another would take a different approach. In addition, a caseworker's attitude towards a particular client is an individual matter—whether the caseworker is sympathetic and understanding or suspicious and hostile will depend to a large extent on his personal temperament. The subjects discussed during the home visit, the degree of concern about employment or men in the house, and the amount of encouragement given children to pursue education and training, will inevitably vary among caseworkers. Thus, because the problems and needs of each welfare family vary and the problems of any one family change over time, and because caseworkers bring to their jobs differing attitudes and abilities, a flexibly structured, highly decentralized system is likely to result.

4. The Lack of Systematic Control

Under existing methods of supervision and control, many discretionary decisions by the caseworkers escape detection at the state level, and possibly even at the county supervisor level. This lack of supervision of field-level activities results in the failure of caseworkers to disclose to clients the availability of different programs or to inform them of their rights under current programs. This problem does not readily come to the attention of supervisors through normal methods of supervision because the current system depends largely on complaints by clients to control caseworkers, and a client can hardly complain if he is unaware that he has not been fully informed. Individual caseworkers report that they do not bother to enforce responsible relative laws or the taxing rules or do not require disclosure of the father's name by an unwed mother. Existing patterns for supervision thus provide only a minimal check on the individual caseworker's implementation of the welfare program.

Based on conversations with state supervisors, county welfare directors, and caseworkers, our impression is that the top bureaucrats have only an imprecise grasp of the details of field-level operations. They lack the resources, techniques, and perhaps the will, to become familiar with field activities and are distracted by other administrative concerns such as agency morale and community relations. Some agency officials noted that from time to time they would read case records under federal quality control procedures and monitor statistical reports evidencing large differences in expenditure patterns, but they were simply unaware of the degree to which administrative discretion was being exercised over a whole range of issues.

The complaining client is likewise insufficient to control local discretion effectively. AFDC recipients have long had the right to appeal

any decision of the county department of welfare to the state agency. From the state agency's point of view, one of the purposes of this appeal (or fair hearing) is to detect weaknesses or illegality in county administration which may then be corrected by hearing officer decisions or by changes in state regulations. As a method of control, the fair hearing process has been almost a complete failure. The vast majority of clients are either ignorant of their right to a fair hearing or how to exercise it, and lack the resources (including access to attorneys) or the willingness to challenge the caseworker and the agency.²² The next section will deal more fully with client attitudes, but it should be noted that the fair hearing remedy raises significant problems for recipients, whose primary concerns are maintaining security and minimizing contact with the welfare bureaucracy, and who must deal with the county agency after the appeal.

The situation is different, of course, when welfare recipients are organized and have access to capable, energetic attorneys. Under these circumstances, clients have had notable success in curbing welfare abuses and in obtaining benefits by controlling official discretion.²³ But because of the recent publicity and attention focused on the activities of welfare rights organizations, their importance may be easily exaggerated. Most recipients are passive, dependent, and interested primarily in stability. Because generally unaware of the benefits to which they are entitled and expecting little from the program, they do not perceive injustice or feel aggrieved. These characteristics greatly hamper the growth of welfare rights organizations and contribute to the more basic problem of communicating information to welfare recipients. Welfare rights organizations probably touch only a very small minority of recipients. In addition to these weaknesses of welfare rights organizations, the effectiveness of attorneys in producing significant changes in welfare administration is also questionable. Poverty lawyers frequently complain of the frustrations and difficulties of dealing with agencies and, in particular, of enforcing court decrees and fair hearing decisions. Finally, the effectiveness of welfare rights organizations may make life for the vast majority of recipients more difficult; the bureaucracy, if it responds at all, responds to those who actively make demands rather than to the great majority of silent, passive, dependent recipients. The supervision provided by client organizations

²² For an empirical study of the fair hearing system in Wisconsin, see Handler, *Justice for the Welfare Recipient: Fair Hearings in AFDC—The Wisconsin Experience*, *supra* note 12.

²³ For one of many discussions of the ability of welfare rights organizations to secure benefits for welfare recipients, see Gellhorn, *Poverty and Legality: The Law's Slow Awakening*, 9 WM. & MARY L. REV. 285 (1967).

and their lawyers works sporadically for relatively few recipients and has little effect on local discretion and decentralization of authority.

Thus, the jurisdictional division of authority, the structure of welfare rules, the nature of the work, and lack of supervisory control all contribute to produce an enormous amount of discretionary authority at the field level. AFDC caseworkers have great leeway in administering the program. Consequently, great variation in actual administration might be expected. Although the six welfare departments surveyed were located in communities of different political, economic, social, and urban character, surprising uniformity of administration was discovered. The welfare directors differed in backgrounds, attitudes towards the agency, conceptions of the program, priorities and goals, reflecting the social, moral, and political conflicts of each community. Administration at the field level, however, was characterized by a general pattern of uniformity and similarity in administration throughout the six counties. Given the great flexibility in administration caused by decentralization of authority and the quite different political, economic, and social environment of each agency, what accounts for this general pattern of uniformity?

B. *Uniformity: The Contributing Factors*

We think that such unexpected uniformity results from structural factors producing a strategy of *withdrawal*. Opposing the structural factors resulting in decentralization and discretion at the field level are factors encouraging caseworkers to exercise their discretion in a manner minimizing involvement with welfare recipients. Four factors contributing to this lack of involvement or withdrawal are: (1) the pressure of work; (2) the attitudes of the caseworkers; (3) the attitudes and expectations of the recipients; and (4) the benefits or resources at the disposal of the caseworkers.

1. The Pressure of Work

The effect of large numbers of recipients on administration of a welfare program is staggering. The major elements of AFDC administration—eligibility determination, budget, and social services (including employment)—presume individualized treatment, but such individual attention requires greater time and energy than public assistance caseworkers can expend. Harsh and punitive as well as liberal and progressive administration requires time and effort. Large numbers of applicants preclude detailed and complicated inquiries concerning the possibilities of support by relatives, employment, or whereabouts of the father. Because caseworkers visit AFDC homes on an average

of once every three months for approximately thirty minutes, most clients receive no close supervision of budget expenditures, no careful exploration of special needs (unless the client raises the issue), no investigation of earned income, no meaningful social service programs, and no real concern for moral behavior in the absence of unusual circumstances. Although complaints of neighbors (especially if made to the district attorney or police), a sudden and dramatic deterioration of family life, or an emergency will alter this pattern, ordinarily the caseworker is likely only to make the minimum number of home visits and complete the prescribed forms.²⁴

2. Attitudes of the Caseworkers

Individualized administration, whether harsh or liberal, also requires that a caseworker care enough about his job and his clients to, for example, work out a social service program, process special needs, or look for men in the house. When interviewed, public assistance caseworkers adopted professional social work rhetoric, but in practice seemed to lack the commitment demanded by nonuniform administration. For the most part, they are young college graduates with only modest professional training, are not members of professional social work organizations, have been with the agencies only a very short time, lack field experience elsewhere, and do not expect to be in public assistance work very long. They view their jobs as merely temporary positions and not as careers. Thus the turnover rate for public assistance caseworkers is extremely high. In our sample, most clients saw the same caseworker only about three times before a new one appeared. These attitudes foster a lack of individualized administration and minimize the initiative of many caseworkers.

3. Client Attitudes

Client attitudes and expectations about the welfare program and the caseworker promote nonindividual administration. The great majority of recipients in this survey expressed positive attitudes toward the welfare program and the caseworker within a framework of very low expectations. Beyond assuring basic economic security (at a fairly low level), the program and caseworkers provided little additional

²⁴ The results of a New York study of AFDC recipients reveal the minimal impact that caseworkers have on recipients. "Negative eligibility attitudes" are unrelated to either the frequency or the duration of home visits:

It may be that the combination of relatively high caseloads, and the heavy and urgent demand of ADC clients primarily for financial assistance, left too little leeway for the factors considered in the formulation of Hypothesis 1 [that negative eligibility attitudes are inversely related to the frequency of home visits] to operate.

H. Yahr, R. Pomeroy, & L. Podell, *supra* note 16, at 9.

assistance. Although they spoke well of caseworkers, the recipients were uninterested in increasing caseworker visits and thought that the caseworker could do little more for them. Their positive attitudes resulted largely from the kind of interview conducted by caseworkers—a friendly chat about general topics of concern to single women running families. Usually the caseworkers avoided sensitive or specific issues such as social life, relations with men, and home care, and topics which might have led to complaints or demands. Within this context, clients found the home visit somewhat pleasant and nonthreatening. Those who received unannounced visits usually did not object.²⁵

Exceptions to this pattern of positive client attitudes arose when a more sensitive or detailed approach was adopted. When caseworkers expressed disapproval of certain conduct, clients reacted negatively. Conversely, when caseworkers had something tangible to give, clients reacted much more positively. When caseworkers helped in more intangible ways, clients acknowledged the help but also indicated that they were “bothered or annoyed” with the discussions. When clients were bothered or annoyed by specific caseworker discussions, they were also more likely to be less trusting of the caseworker, to have even lower expectations of what the caseworker could do, and to be less inclined to believe that the caseworker generally had a good reason for what he did. As long as the caseworkers avoided playing a meaningful role—whether positive or negative—in the lives of the clients, client passivity and, more importantly, overall satisfaction, were the usual result. Unless the caseworkers could deliver tangible goods, a more meaningful interaction ran risks of alienating the clients.

4. Lack of Resources

With the exception of health care, caseworkers could obtain little additional assistance for the clients. Some caseworkers tried hard to get their clients grants for special needs or acceptance into special programs, but they were the exception rather than the rule. AFDC simply lacks many extra benefits to distribute. The usual strategy for the public assistance caseworker was to discuss only general topics with clients and to avoid raising expectations that might lead to unpleasantness and additional work. This strategy required a caseworker to ignore illegal or dubious practices such as failure to report earned income, relations with men, and particular questionable expenditures. Because the resources available to the welfare recipient through AFDC

²⁵ For a detailed description of the caseworker-client relationship, see Handler & Hollingsworth, *The Administration of Social Services and the Structure of Dependency: The Views of AFDC Recipients*, *supra* note 12. For data on the unannounced visit, see Handler & Hollingsworth, *Stigma, Privacy, and Other Attitudes of Welfare Recipients*, *supra* note 12, at 10-13.

are minimal, caseworkers tended to develop a general attitude of moderation, neither seeking actively to make additional benefits available nor enforcing strictly limitations on existing benefits.

The welfare bureaucracy is characterized by decentralization of authority and great discretion at the field level. But caseworkers usually exercise this discretion to minimize involvement with the welfare recipients. AFDC remains basically a low-level, income-maintenance program characterized by potential flexibility and practical uniformity.

IV. THE WELFARE RECIPIENTS: RELATIVE DEPRIVATION

A laissez-faire pattern of administration explains many of the recipients' responses. In general, the respondents made few requests for special needs and seldom participated in special programs. Grants were changed only occasionally. The general superficiality of the home visit resulted in few feelings of coercion or annoyance. The recipients found caseworker discussions somewhat helpful, and reported that they liked their caseworkers, but expected little from them. Because the AFDC program provides little more than minimal financial support, the clients' use of the program and their manner of termination depended on their own resources and on the opportunities available in the community. White, educated clients with small families were more likely to achieve independence than those unable to mobilize their own resources to take advantage of whatever opportunities the community offered.

The absence of negative feelings on the part of the recipients is understandable in light of the unobtrusive nature of administration; but the generally high levels of satisfaction with most aspects of the program, retained even by those who had left the program, is surprising. For example, approximately eighty percent of those interviewed said that they liked, trusted, and enjoyed talking with their caseworker; that they made a special effort to stay on good terms with him; that the caseworker usually had a good reason for what he did; and that they contacted their caseworker at times other than the regular visit. More than eighty percent of the original sample plus those who had left the program felt that the welfare experience was satisfactory in view of their needs, and over ninety percent of those who had withdrawn from the program said that they were either always or usually treated fairly by the agency and the caseworkers.

We think that these positive attitudes can be explained by a concept of *relative deprivation*.²⁶ The attitudes of the recipients were shaped

²⁶ For an excellent discussion of this concept, see W. RUNCIMAN, *RELATIVE DEPRIVATION AND SOCIAL INJUSTICE* (1966).

by their frames of reference—their experiences before welfare, their views of their needs, their welfare receipts, and their expectations and aspirations.

Respondents' present family lives compared unfavorably with their childhood. Most respondents recalled being raised in unified families, and although the occupations of their parents resembled their own, most indicated that their parents had not relied on welfare for support. Their families were certainly not affluent, but the respondents recalled childhoods of harmony, stability, and moderate comfort. For most, living conditions were uncrowded, there was always enough to eat, money was available for special treats, and their parents got along well.²⁷

On the other hand, adult life for most of these women was harsh and economic insecurity pervasive. Those who married did so when quite young, and neither they nor their husbands had much education or occupational skill. Only about half of the respondents had had husbands who provided a regular source of income; the other half either never married or married someone who supported the family only sporadically. In addition, almost every respondent was abandoned by the father of her children.

In strictly economic terms, the AFDC program provided a regular source of income at a level higher than its beneficiaries could earn.²⁸ The program returned stability to their lives. They continually emphasized that they favored the AFDC program not only because it provided a steady source of income, but also because it relieved them of the burden of trying to obtain support from the fathers of their children. The program satisfied the most pressing needs of the recipients, providing them some measure of security with a minimum intrusion into their lives. The length of time between eligibility for AFDC and application was relatively short, suggesting that the economic predicament of these families was quite serious. Following the intake process—generally restricted to determining financial eligibility and calculating a budget—the welfare checks came regularly, and the caseworkers seldom intervened actively in client affairs either to investigate possible misconduct or to suggest additional options. The clients expected little and were satisfied with what they got. The positive attitudes of the clients toward the caseworkers were expressed within this framework of very low expectations. For example, most said that the caseworkers visited “often enough” regardless of the fre-

²⁷ These background characteristics (as recalled by respondents) are reported in *Communities, Agencies, and Clients*, *supra* note 19.

²⁸ The economic benefits of welfare as compared to employment for these respondents are discussed in Handler & Hollingsworth, *Work, Welfare, and the Nixon Reform Proposal*, *supra* note 12. See also Hausman, *supra* note 6.

quency of visits, that caseworkers could do nothing more even if they had more freedom and time, and that requests and calls to caseworkers decreased with time in the program. Three-quarters of those who had withdrawn from the program said that the caseworker was helpful in seeing that they got the most out of the program. Asked to detail what the caseworker had done for them, however, one-third replied "nothing" and most of the rest said that the caseworkers helped to get them money and health care. Two-thirds indicated that the caseworker could have done nothing more for them.

Although the pattern of low expectations is the norm, two other patterns are significant to an analysis of welfare recipients. One group of survey respondents was not "well adjusted" to welfare status and made better use of the welfare system than the majority. Those falling in this category were less satisfied and less accepting; they asked for more and participated more fully in the benefits of the program.²⁹ The other important pattern was apparent when caseworkers procured tangible benefits for recipients. In this situation, clients were found to be highly dependent. For example, caseworkers could give clients concrete help in obtaining health care, and most clients said that discussions with caseworkers in this area were very helpful. They indicated that they felt obliged to follow the caseworkers' advice all or most of the time. In contrast, clients felt that discussions about social life and home care were not particularly helpful, and that they were not compelled to accept the caseworkers' advice in these areas.³⁰

V. IMPLICATIONS FOR REFORM

Inherent in the welfare bureaucracy are many problems sustained by the attitudes of welfare recipients. The welfare bureaucracy is characterized by decentralization resulting in broad discretion at the field levels of administration. Only countervailing forces encouraging minimization of involvement with clients prevent completely arbitrary administrative actions. This lack of caseworker involvement presents the least threatening situation to welfare beneficiaries seeking only a limited degree of financial security and personal stability; consequently they react positively to caseworkers and seldom complain of lack of assistance.

The uncontrolled flexibility of the system permits inconsistent responses when an agency is staffed by truly concerned caseworkers or by those responding easily to political or social pressure. Furthermore,

²⁹ See Handler & Hollingsworth, *Stigma, Privacy, and Other Attitudes of Welfare Recipients*, *supra* note 12, at 7-9.

³⁰ See Handler & Hollingsworth, *The Administration of Social Services and the Structure of Dependency: The Views of AFDC Recipients*, *supra* note 12, at 408-09.

the passivity of most welfare recipients and the corresponding weakness of welfare rights organizations inhibits even those clients desiring to break from this pattern and to assert their rights more forcefully. In short, although the Wisconsin welfare system, which we believe is representative of many others in this country, currently satisfies the extremely low expectations of the welfare clients, the uncontrolled discretion resting in lower administrative officials presents a potential vehicle for arbitrary action and abuse.

In light of these basic characteristics of the welfare system, the implications of three techniques of reform should be examined: (1) coercive rules with protective standards, (2) rehabilitative social service programs, and (3) discretionary distribution of benefits.

The present welfare system contains many coercive rules with protective standards embodying conditions for aid. For example, an unwed mother in Wisconsin must, if she can, supply the name of the putative father. The qualification of knowledge theoretically protects her, and she has the right to a fair hearing to challenge an adverse decision. But a closer examination reveals the inadequacy of this protection: Who has the burden of proof of knowledge? How can lack of knowledge be proven? What evidence must the unwed mother adduce? A woman applying for welfare has suffered a severe personal crisis and faces the difficult problem of providing the necessities of life for her children. Her social and economic condition, and particularly her lack of psychological and economic resources, seriously limit her ability to invoke protective provisions even if such provisions are fairly administered by the welfare agencies.

The most prominent example of a coercive rule with a protective standard, and the one most important for current reform proposals, deals with employment. Employment requirements in various forms have always been conditions for public assistance. President Nixon's proposed Family Assistance Plan similarly will require all recipients (with limited exceptions) to register with state employment agencies and will deny aid to recipients refusing to accept offers of employment or training.³¹ Similar work requirements are now part of the AFDC program under the 1967 Work Incentive Program. The protective standards are variously stated. The offer of employment must be "bona fide," adequate day-care arrangements for the children must be available, the work or training must not be detrimental to the "best interests of the family," and it must be "suitable."³² As indicated above, these rules in effect delegate discretionary authority to the field level. Under present bureaucratic conditions, such discretion means

³¹ See *Hearings* 63-64 (proposed Family Assistance Act of 1969, §§ 447-48).

³² 45 C.F.R. §§ 220.17, 220.18, & 220.35 (1970).

that for most recipients the work requirement will be a minor irritant or formality because field-level officials have neither the time nor the interest to seek out work or training for recipients. For some, opportunities will be created, but for most, such rules will result in punitive regulation and harassment. The manner in which particular agencies and officials interpret and apply these vague standards is uncertain at best, but the vast majority of recipients cannot protect themselves from improper employment decisions. As noted, most recipients are passive, dependent, without knowledge of their rights or the resources to enforce them, and must continue to deal with the agencies after a challenge to this discretion is raised.

These considerations apply to all coercive rules with protective standards. As a practical matter, protective standards do not protect welfare recipients, and whether coercion will be applied depends upon the discretion of officials.

The efficacy of rehabilitative social service programs as a technique of welfare reform is doubtful. No real social service activity takes place within the welfare program. Although variously defined, the term "social services" refers essentially to services requiring fairly intensive personal interaction between the caseworker and the welfare family or particular members of the family. Social services are not necessarily restricted to psychological problems but reach all kinds of problems detrimental to family well-being. Personal, professional counseling may be used to work out an employment program fitting a particular job into satisfactory day-care arrangements, or to establish a vocational program for a teenage daughter, or to provide budget and home care assistance, or to encourage the use of community resources. But a meaningful social services program requires competent, interested workers with time and resources at their disposal. Such qualified caseworkers have been unobtainable—a situation unlikely to change dramatically in the near future.

In light of the Wisconsin AFDC experience, the federal government should reorganize or discontinue financing public assistance social service programs. Federal financing procedure has been to offer the states an additional twenty-five percent of the administrative costs, including the caseworkers' salaries, for social services for "defined service" cases. Because the only standards used to evaluate social services are very crude quantitative indicators, such as the frequency of caseworker visits, an agency may easily qualify for the additional aid without changing service levels. In fact, this was the situation in the Wisconsin counties studied. According to the clients, very little service activity existed. Both state officials and the quantitative data

corroborated the clients' observations. Although the minimum federal requirements do not in any way insure meaningful social services, agencies lack incentive to provide additional services. Because the agencies will not receive any more money for doing a good job, the costs of administrative effort beyond the bare minimum necessary for the additional federal dollars—the costs of really helping a family—must be borne by the agency and the caseworkers. Thus the agency usually restricts its costs by providing only the minimum services required.

The most serious and intractable problem in welfare administration, the discretionary distribution of benefits, speaks loudest for legislative reform. From a liberal-reformist perspective, the policy issues and goals of the first two reform techniques are fairly clear and, assuming the political will, capable of considerable reform. Coercive conditions can be eliminated from the welfare system. Eligibility can be made to depend on a fairly simple income and resources test administered by a self-declaration system as now utilized successfully in some areas of the country. The issues, policy considerations, costs, and remedies for responsible relatives laws, men-in-the-house rules, and regulations dealing with moral behavior are fairly well delineated. Similarly, welfare recipients may be encouraged to seek work by adjusting the rate of the welfare grant as earned income increases to make work profitable and by creating job opportunities rather than by forcing people to work by threatening to terminate benefits.

Solutions for social service programs are much more complicated, but we suggest the following general approach: if social services are considered to be important, and if public assistance welfare agencies are incapable of administering them, then different, independently funded agencies should be delegated the authority over social services programs. Judging by past experience with OEO legal services and Medicaid, this solution is by no means free of difficulties, but at least it may be free of the decentralization and potential abuses of discretion characteristic of current AFDC administration.

The problems raised by discretionary distribution of benefits, however, are far more difficult to eliminate. The analysis of the administration of social services programs and of the caseworker-client relationship led to the conclusion that client dependency was created not so much by coercion as by the power of caseworkers to give clients tangible benefits. When caseworkers exercised this power, client gratitude, satisfaction, and feelings of dependency increased considerably. The feelings displayed by these welfare recipients were not necessarily tied to a legally coercive system, but were also evident in a variety of voluntary situations. Dependency is simply a fact of life

when government officials have discretionary authority over benefits people want and need. Client dependency created by this relationship will remain so long as individual treatment is needed in welfare systems.

The great emphasis on reform today looks to standardization of welfare administration by simplifying procedures for the determination of eligibility and the level of benefits. Standardization reduces official discretion and thus client dependency. Unless benefits are very high, however, many families will still be unable to function within socially acceptable limits for a variety of reasons. Although its budget may be adequate, a family may have unusual debts or expenses, or be incapable of managing what it receives. The present AFDC program recognizes this situation in theory and provides special need grants for emergencies or for unusual circumstances of a more continuing nature, such as special diets. Unless the social costs of economic hardship and family deterioration are to be imposed on the family, some system of individualized treatment must be made available. But any such system creates exactly the problems of discretionary administration inherent in the present AFDC program. Progress can be made toward objectifying standards, requiring communication of information, and setting up different administrative structures, but these improvements will ultimately depend upon the quality of administration.

Dependency created by the distribution of benefits is also an inherent feature of social services. The above analysis reveals that dependency increases according to the extent that social services provide tangible benefits. This is an additional reason for not strengthening the social services departments of public welfare agencies because either the departments will not carry out the social services programs, or the already excessive powers of welfare agencies over recipients will increase even further.

Developments in England illustrate this problem.³³ Prior to 1963, the Children's Departments of the Local Authority, community governments roughly equivalent to our county governments, administered child protection programs. They would receive children "into care" when parents could no longer provide for them or when courts ordered children removed from their homes because of delinquency, dependency, or neglect. In 1963, powers of the Children's Departments were significantly extended to deal broadly with "problem families," families which had problems with the marriage, child-rearing, the police, budget management, creditors, housing authorities, or poor health. As the Local Authority's principal social work agency, the Children's Depart-

³³ See Report of the Committee on Local Authority and Allied Personal Social Services, Cmnd. No. 3703 (1968), summarized in *Seeborn Report*, 12 *New Soc'y* 124 (1968).

ments were given the power to make emergency cash grants for "unusual circumstances" and to work out arrangements with other public and private agencies that figured prominently in the lives of problem families.

As a decentralized social service program, the activities of the Children's Departments varied considerably. With some exceptions, the Departments obtained highly coercive regulatory powers over clients through extensive discretionary powers to reward or sanction.³⁴ They had discretionary funds to pay clients' bills, including rent and utilities; through arrangements with the other public agencies, they were often influential in negotiating with the police in delinquency matters, in obtaining priority rehousing from the public housing authorities for certified "families at risk," in avoiding or at least delaying threatened neglect or truancy proceedings, and in obtaining additional funds from the Ministry of Social Security which administered the basic income-maintenance program. In many instances, people in trouble were referred to the Children's Departments by other public agencies, but often people sought the services of the Children's Departments on their own. In either situation, the Children's Department officers became enormously powerful either through their own distribution of benefits or as brokers and intermediaries for other agencies. Although a vast oversimplification of the operation of the Children's Departments, this description does illustrate the relationship between the discretionary distribution of benefits and client dependency.

Because of the present structure of public assistance agencies, the lack of bureaucratic controls, and the conditioned attitudes of the poor, we prefer the creation and support of social service agencies outside the public assistance structure. Although adoption of this proposal might create the problem of many workers visiting the same family, thereby complicating the communication and referral process, and might entail problems of distributing services to people in less densely populated areas and of encouraging people to use services that are available, many of these problems exist under current programs and seem incapable of solution. Public welfare departments currently seem unable to mount an effective social service program even in urban areas.

The main advantage of this proposal is that it disperses discretionary power by creating options for welfare recipients. The problem of dependency and coercion will not be vitiated by merely making social services voluntary as long as they are administered by one central government agency. But chances of decreasing dependency improve by making available a diversity of opportunities. A second

³⁴ See Handler, *The Coercive Children's Officer*, 12 *NEW Soc'y* 485 (1968).

advantage is that it frees social services from a single structural arrangement, the public assistance welfare system, thus permitting experimentation in the organization and delivery of social services. For instance, a variety of approaches have been developed in law and medicine which may be applicable to social services such as neighborhood and community centers (with or without community control), offices staffed by government-supported professionals like OEO legal aid offices, private organizations under government contract, and private practitioners paid by the government on a case-by-case basis. Obviously a great variety of structures will be necessary to meet the many different kinds of problems of delivering effective services.

CONCLUSION

The Mother's Pension laws, the predecessors of the Aid to Families with Dependent Children Program, were intended to be welfare programs for "deserving" husbandless mothers. Ironically, husbandless mothers and their children have never been considered deserving. The administrative characteristics of welfare programs for the "deserving poor" are routinized money payments, clear entitlements, the absence of regulatory conditions, and the assumption that the recipients are free to take advantage of other services offered by the community. In short, welfare programs for the deserving poor are characterized by the absence of discretionary controls. Yet the AFDC program is replete with discretion at lower administrative levels.³⁵ This Article has attempted to describe the virtually uncontrolled exercise of this discretion and its effect on welfare recipients. The suggestions for reform are not panaceas. Poverty and dependency will not be eliminated by reforming administrative structures. But the usual methods of reform—coercive rules with protective standards, public assistance social service programs, and discretionary distribution of benefits—will not serve the interests of this dependent population, because they underestimate the power of the bureaucracy to resist change and overestimate the ability of the recipients to protect themselves from the lawless exercise of official discretion. The poor in our society bear many burdens and will continue to do so as long as they remain poor, but one of the burdens that could be diminished is the cost of being subject to so much discretionary power.

³⁵ For a typology of social welfare legislation based on the "deserving"- "non-deserving" distinction, see Friedman, *Social Welfare Legislation: An Introduction*, 21 STAN. L. REV. 217 (1969).