

THE THIRD LIE

Why Government Programs Don't Work—And a Blueprint for Change



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Introduction

GOVERNMENT PROGRAMS: THE GOOD, THE BAD, AND THE UGLY



As the old joke says, there are three big lies: first, “Of course I will respect you in the morning”; second, “The check is in the mail”; and third, “I am from the government, and I am here to help you.” This book is about the third lie.

It’s a simple task to review government social programs and demonstrate the failure of good intentions because, as the third lie suggests, the argument is delivered to an accepting audience. For the public and much of the media, waste and fraud in government programs are givens. Well-drawn portraits of welfare queens, freeloaders, and corrupt and wasteful administrators are widely disseminated. Virtually every political candidate for a federal office either attacks waste and fraud or uses presumed waste and fraud as the basis for proposing a new and better program (which, of course, will not be fraught with waste and fraud).

The belief that government programs do not and cannot work is one of many factors underscoring the ferocity of opposition to the Obama administration’s proposals for financial and health care reform. The very existence of the Tea Party and their anti-incumbent campaigns demonstrates that a large audience subscribes to the notion of government incompetence.

Before the economic crisis of 2008, a sardonic excoriation of the failure of government programs would have been merely amusing. But as I write this, in early 2011, government’s inability to provide genuine help for serious social problems is a crisis and a tragedy. From when the mortgage default and bankruptcies of large investment banks such as Lehman Brothers began in the fall of 2008 until the midterm election in November 2010, the federal government has spent and invested hundreds of billions of dollars to prop up failing financial institutions and stimulate a depressed economy. And yet the economy is still balky; the unemployment rate is near 10 percent nationally and above 12 percent

in some states. The middle class, if there still is one, has slowed down its spending. Housing sales are increasing, but at a much slower rate than one would expect, given that home mortgage rates are the lowest they have ever been in modern times. The stock market may have exceeded 12,000 in February 2011, but that still has not helped the broad middle class. A second and profound government shortcoming, mostly at the state and local level, is in education. The graduation rate for inner-city minority youth is under 50 percent in many large urban areas, low enough to generate the dismal prediction that youngsters who do not graduate high school are likely to live a life as have-nots and never-will-haves. This population may be unreachable by even the most effective (albeit rare) government programs.

But the facts about the government's inability to help and the plausible solutions that could work are hardly simple. I am a social scientist, researcher, and presently dean of the School of Social Policy & Practice at the University of Pennsylvania. In the last ten years, I have undertaken the task of slogging through the murk and morass of government efforts. My first goal was to explain why existing programs live up to the third lie. Next, I sought out those programs that seemed to work—even if they were not perfect. I analyzed those that showed evidence of being effective, assessed the quality of the evidence, and drew out the commonalities between the effective programs. Last, and most important, I synthesized what I learned about the “bad” and the “ugly” programs as well as the “good” and effective efforts, and developed my own policy that would have a good chance of being successful, of actually helping people.

The task of separating the good from the bad and ugly is complex for at least four reasons. First, most people believe “I’m from the government and I am here to help you” is just a big lie. Second, those on the right want no part of more big government and more spending. Third, those on the left continue to believe that more and more funding for bigger and bigger programs is the answer, despite a good deal of evidence to the contrary. Fourth, any program will have to meet the daunting challenge of being truly affordable, with a funding formula that is not merely smoke and mirrors.

I believe that the key to success for any government effort is the support of a vital, vibrant middle class. The current economic crisis persists because what is left of the middle class is afraid to spend, afraid to invest, and afraid to be only a step away from poverty. To succeed, government policy must address this reality.

Chapter 1

THERE OUGHT TO BE A LAW!



In 1977, I had just become chair of the Department of Sociology and Anthropology at the University of Rhode Island. I was thirty-one years old and had the temperament typical of social reformers. My professional focus was the study of child abuse and violence against women, and so by profession and specialty I was already an advocate for the oppressed and disadvantaged.

The department's offices were on the first and fifth floors of a five-year-old building, the Chafee Social Science Center (named after the former governor and then junior senator from Rhode Island, John Chafee). Legend had it that the Chafee building, with its eight-story office tower, was the tallest building between Providence and New Haven. The tower had two elevators, which had already become the butt of "lowest bidder" jokes because of the cranky functioning and frequent breakdowns. Nonetheless, even those of us who were relatively fit eventually came to use the elevators to go between the offices on the first and fifth floors.

One afternoon, I got on the elevator to go to the fifth floor with a young woman, whom those days before political correctness I would have called a dwarf (now she might be called a "little person"). It immediately became obvious to both of us that she had a problem. The buttons for each floor were positioned vertically on the elevator wall, and she could only reach the button for the second floor. This was a serious inconvenience, since, as she told me, she was headed to the Economics Department on the eighth floor. I pushed the "8" button for her and we began to go up.

In the few moments it took us to reach the fifth floor, it became clear there was a significant obstacle to her education. How, she asked me, could she major in economics if she could not even get to the department office? Walking up eight flights every day would be out of the question.

In my best "champion of the oppressed" voice, I asked her to come to my office and let me help her. There, I quickly called a colleague who

worked for the vice president for Student Affairs and asked if she could meet with the woman and help her resolve the problem. My colleague agreed, and I sent the young woman off. When she left, I sat back and grinned smugly, congratulating myself on my gallant act of social justice. I had advocated for an “oppressed” person who had a “personal problem,” and I assumed all would be right in the world.

My smugness lasted less than an hour. The young woman came back, and when she arrived at my door, I assumed she was there to thank me. But instead she had come to tell me what a futile runaround she experienced. The vice president for Student Affairs sent her to the person responsible for students with learning disabilities (per the provisions of the Rehabilitation Act of 1973, PL 93-112). The university, because it received federal funds, had set up an office for disabled students. But the head of the Office of Student Disabilities said she was only able to deal with learning disabilities and really could not suggest a solution.

The woman in charge of the Office of Student Disabilities then called the facilities office, which suggested that the young woman purchase a television antenna and carry it in her purse. She could telescope the antenna to push the “8” button on the Chafee elevator. I actually thought that suggestion was reasonably creative and better than putting a footstool in each elevator.

However, the student was neither amused nor empowered by her travels through the university bureaucracy. She was angry that no one seemed to take her problem seriously and realize that her elevator troubles went beyond the problem of getting to the eighth floor. What she had discovered was that the university was simply neither physically nor bureaucratically equipped to accommodate her personal situation.

For what sociologists call a “personal trouble”¹ to become a social issue, it has to capture the public’s attention, generate public concern and controversy, and produce collective action. The demand for change typically occurs when people view a situation as wrong and feel that *rights* have been violated. The young woman wanted a college education at a state-supported institution and wanted to major in economics. She was blocked because of a decision to install buttons vertically in an elevator. A person in a wheelchair would have also been unable to push the “8” button.

Problems like this are injustices, not merely misfortunes. Thus, when injustices are perceived, there is an effort to bring attention to them and seek a resolution. The rallying cry is often, “There ought to be a law!”

As famously expressed by the late Speaker of the House, Tip O’Neill, and often repeated, “All politics is local.” That claim notwithstanding, many complaints about the ineffectiveness of government focus on the

federal level. Granted, many state and local policies address personal troubles and social issues. But the wholesale delivery of government assistance in the form of sweeping policies—not to mention the deepest well of funding—exists at the federal level. Even though constrained by the Constitution not to become involved in matters that are the province of the states, the federal government is identified by the provisions of that same Constitution as the ultimate protector of human rights and the ultimate source of redress of personal injustice. The road to good intentions most often starts in Washington because Washington has the deepest pockets and the biggest stick—the U.S. Constitution.

POLICY, LAW, AND RESIDUAL SOCIAL POLICIES

Cries that “there ought to be a law!” are typically grounded in the plight of one individual or a group of individuals who have experienced injustice. When physician C. Henry Kempe began to see children admitted to the Colorado General Hospital with fractures and injuries that could only have been inflicted by a caregiver, he was appalled by the medical profession’s lack of response to these injuries. Why weren’t physicians and nurses recognizing them as deliberate attacks on the children? How many such injuries occurred each year and how many were ignored or overlooked by physicians, nurses, teachers, counselors, social workers, and others in the helping professions?

Kempe’s contribution to the field of child welfare was that first he turned a “personal trouble” into a call-to-arms for the medical community to view physical child abuse as a social issue; and then he championed mandatory reporting laws. His goal was to generate collective action to remedy the problem of intentional injury of children. Without the law, Kempe’s research, his articles in the medical journals, and his social advocacy would have produced only minimal social change.

There are many similar stories about personal troubles that led to collective action and ultimately a law. In 1981 John Walsh, when his son Adam was kidnapped and killed, turned his own tragedy into a social issue that led to federal legislation on missing and exploited children. Another social injustice, wife abuse, had been part of the fabric of American families since the seventeenth century. Efforts to address it had waxed and waned for decades. There had been some state legislation, but it was only after the O.J. Simpson case that this kind of crime gained federal attention. When the case burst into the headlines in 1994, Congress quickly enacted the first version of the Violence Against Women Act. When the bill was up for reauthorization in 1996, one of

the lead witnesses before the Senate Judiciary Committee was Denise Brown, sister of the slain Nicole Brown Simpson.

The grounding in personal tragedy of calls for social action tends to produce a particular type of policy. There are two main government approaches in the area of social policy and social welfare. The first, and most widely used, is what scholars Neil Gilbert and Paul Terrell call the “residual model.”² This model, which others refer to as “targeted social programs,” evolved in the United States in the 1930s in response to the Great Depression. According to Gilbert and Terrell, a “residual model” arises when existing institutions—family, education, the economy—fail to meet individual and family needs. Residual policies are created on the assumption that, although our political, social, and economic institutions generally operate effectively and meet most of the population’s needs, some problems remain that require targeted or residual social policies.³ The “residual model” is a temporary (although it might ultimately become permanent) safety net created by the government. Those who support this model believe government should be small, decentralized, and respond only when absolutely necessary.

In the United States today there is a long list of residual social welfare policies. Federal and state child maltreatment policies, including mandatory reporting laws, respond to residual cases in which parents cannot or will not protect and care for their children. Domestic violence legislation is aimed at the residual families and couples in which the conflict rises to the level of physical and sexual violence. The core residual policies for domestic violence consist in using the criminal justice system, in the form of restraining orders, arrests, prosecutions, and court-ordered counseling, to protect victims and prevent future violence.

Supplemental Social Security (SSI) provides financial resources to older people whose Social Security benefits are insufficient to meet some basic needs. Aid to Families with Dependent Children (AFDC) was the core welfare residual policy until 1996, when the policy became even more residual—as captured by the new title, Temporary Assistance to Needy Families (TANF). And last—but for the purposes of this book, not least—the Americans with Disabilities Act (ADA) and the Individuals with Educational Disabilities Act (IDEA) are residual policies for children whose learning, physical, or mental health disabilities or challenges produce special needs requiring accommodation by schools.

The second government approach, “the institutional model,” views social welfare as a set of permanent and centralized institutions that serve a preventative function. The “institutional model” is not a safety net, does not specifically target programs and services, and does not have

a “means test” nor requires a shortcoming or disability to qualify for services and support.⁴

The best example of an institutional social policy is the Social Security program. The key assumption behind Social Security is that the elderly, having retired, need an assured income. This is accomplished by taxing the working population and paying benefits to everyone after a certain age. Currently, people born before 1937 may receive full benefits at age sixty-five; they may receive partial benefits at age sixty-two. Eligibility age for full benefits is higher for those born after 1937—so for baby boomers born in 1946 the age for full benefits is sixty-six. Of course, Social Security benefits are not really universal, since one has to work forty quarters (three months) in order to qualify for them. However, Social Security is obviously universal in that people receive benefits irrespective of whether they have no assets or billions in assets. I will have more to say about the current state and solvency of Social Security in Chapter 3.

FEDERALISM AND SOCIAL POLICY

Most government social policies are residual. The rationale for this is grounded in the Constitution. The United States operates under the governmental principle of federalism. It would be too much of a digression to go through the history and philosophy of federalism and the debates about it that have raged for more than two hundred years. At the core of the issue is the fact that the founders of the United States and the authors of the Constitution set out to create a republic with a relatively weak central government. The federal government is vested by the Constitution with the power to tax, provide for the common defense and general welfare of the nation, borrow money, regulate interstate commerce, manage immigration, coin and print money, set standards for weights and measures, establish post offices, issue patents and copyrights, establish courts, declare war, raise and support a military, and support civil rights. This seems like a long list, but it is actually quite limited. Everything else, all other regulations and policies, are left to the states.

The federal government does not directly run public education. It does not directly provide intervention and treatment for victims of child abuse. It does not provide direct social services for victims of domestic violence. It does assist the needy through residual social policies, including welfare, food stamps (now called SNAP—Supplemental Food and Nutrition Program), the earned income tax credit (EITC), and Medicaid.

These are classic residual means-tested programs. Only those who “need” the assistance are eligible to receive the services.

In reality, when it comes to dealing with personal troubles and social issues, the federal government is relatively weak. By weak, I do not mean powerless. Rather, I mean it is hard for the federal government to enact legislation that gives it a direct role in helping. The prolonged debate over health care reform—which ended in a larger role for the federal government—is a prime example of how difficult it is to enact big “helping” legislation.

This was exactly what the founders wanted. They established a system of checks and balances—the executive branch, the legislative branch, and the judiciary—and then limited the actual powers of the central government. The working of the federal government, with legislation moving through the House of Representatives and the Senate, the veto power of the President, and the constitutional oversight of the Supreme Court, further limits federal power. There are more than five hundred legislators in both branches of the Congress, thousands of staff, and yet, on average, only one hundred pieces of legislation are passed each year (not counting resolutions and the naming of post offices). This is not a function of a tangled and gridlocked political bureaucracy; this was the intent of the founders.

The fabric of the federal government created by the Constitution makes it difficult to enact legislation. As former Senate Majority Leader George Mitchell said to the graduating class of the Senate Page School in 1994, “The Founders wanted to make it hard for Congress to *do something bad*, thus legislators are constrained in doing good things as well.” This structure seems to have served the nation well for more than two hundred years. Federalism does put severe limits on federal social policy—it constrains the ability of the federal government to establish institutional social policies as well as enact residual solutions. But even when government comes together to enact social policies—and this is especially true with residual or targeted social programs—the intended and unintended consequences of residual policies provide ample anecdotal evidence of the third lie.

RESIDUAL POLICIES, ELIGIBILITY, AND OPEN-ENDED ENTITLEMENTS

Hawaii and the Individuals with Disabilities Education Act

As I will discuss in greater detail in Chapter 2, in 1993, in Hawaii, a group of parents of disabled children filed a class-action lawsuit against the state. The parents obtained legal counsel and filed suit in federal

court against Hawaii, arguing that the schools of the state of Hawaii had violated their children's civil rights guaranteed by the Fourteenth Amendment. The basis of the parents' claim was that Hawaii was out of compliance with Section 504 of the Individuals with Disabilities Education Act of 1993 (IDEA) and had been out of compliance for twenty years.⁵ The suit itself was not unique—similar suits had been filed against school districts on the mainland over the previous thirty years. When the suit was settled in 1994, the consent decree stipulated the definition by which children were in the so-called “Felix class,” named for Jennifer Felix, one of the plaintiffs in the suit. The definition was (and is): “The ‘Plaintiff class’ is all children and adolescents with disabilities residing in Hawaii, from birth to twenty years of age, who are eligible for and in need of educational and mental health services.” This definition drew from the stipulations of the federal Individuals with Disabilities Education Act⁶ and Section 504 of the Rehabilitation Act of 1973.⁷ The exact wording is included in the footnotes.

The relevant issues are found in and between the lines. In the lines of IDEA is the specific statement that “the term ‘child with a disability’ [...] may, at the discretion of the state and the local educational agency, include a child...” Thus, the federal statute gives to the states and local educational agencies the discretion to define operationally what is meant by a disability. Said another way, the states have the authority to determine who is eligible for disability services or who will be “targeted” for the services.

Between the lines of both the IDEA and Section 504 of the Rehabilitation Act of 1973, it is clear that federal lawmakers meant to provide only a broad definition of the term “disability.” In keeping with federalism, the framers of federal residual policies give states latitude and discretion to determine eligibility. When disputes occur, as they almost always do with residual policies that have broad definitions, they are often arbitrated in a federal court, as in the Felix case.

The federal government provided only the broadest definition of which children might be eligible for special education and mental health services under the provisions of federal education. The consent decree that resulted from the *Felix v. Waihee* federal suit used a similar broad definition as to which children were included in the Felix class and thus were eligible for services under the terms of the consent decree. It was left to the local educational agencies and the individual school complexes to make the actual decisions regarding which children were in or out of the class. In practice, these decisions would be made as part of each student's Individual Educational Plan (IEP), a process also required under the terms of IDEA. In Hawaii, if there was a disagreement regarding the

IEP decision, the parents could bring the case to a due process hearing⁸ for a resolution of the dispute.

What resulted from the Felix consent decree is a template for what can occur when the federal government creates a new residual entitlement and provides only the most general guidelines for who is eligible. Here is a stark example of how good intentions and a law can go in the wrong direction.

In 1994, when the Felix consent decree was signed by both parties and affirmed by the judge, there were 2,894 children in the state of Hawaii who were, as a result of IEP evaluations, included in the Felix class. That same year, the Hawaii Department of Education's expenses for special education totaled \$24.5 million. The Hawaii Department of Health's budget for Felix-class children was \$156.4 million, making the state's total Felix-related costs \$180 million.

Five years later, in 1999–2000, the Felix class had multiplied four times to 11,842 children. By 2000, the Department of Education's Felix budget was \$109 million, the Department of Health's was up to \$192 million, and the total was \$301 million. And the state had not reached compliance with the consent decree. With the deadlines for compliance looming in 2001 and then pushed back to 2002, DOE's budget was up to \$179 million; DOH was getting \$148 million, for a total of \$327 million. This figure was lower than the \$400 million that had been the two agencies' original request. The final seven-year total Felix-related expenditures were just under \$1.5 billion—and the state was still not in compliance! In the space of seven years, Hawaii went from a limited, relatively stingy approach to the needs of disabled children to an approach that funded almost every request.

How could the number of children eligible for special education and mental health services grow so rapidly? How could a well-meaning residual educational policy grow to outspend the entire state's general revenue allocation for higher education? There are a number of answers, ranging from benign and well-meaning to what I consider to be *the core flaw of government residual social policies*.

The well-meaning explanation is simple: the growth of the Felix-class population simply reflects the educational agencies doing a much better job of identifying children with special education and mental health needs. The stick of having to comply with a federal consent decree and the additional state funding from the Department of Education and the Department of Health allowed schools and mental health agencies to offer vastly improved diagnostic services. Parents now brought their children forward for diagnoses, plans, and programs. This explanation supports the basic principle and intent of residual social programs.

A less well-meaning explanation is that the consent decree and mandate to provide services motivated schools and IEP teams to err on the side of applying a disability diagnosis even when there was doubt about the child's problem. Whereas the state education and health departments and legislature had taken a stingy approach before, the assumption was now that they would fund almost anything to get out from under the control of the federal court. Given that schools were offering more services and the state was required to provide those services, there was an incentive to be inclusive rather than exclusive when evaluating a child.

It is important to keep in mind, though, that the services came with a pejorative label: physical or mental "disability." No matter what politically correct term one uses, the label was not going to be "normal" or "gifted." In educational settings, "special" does not mean good. Some parents and children accepted the label as the price for services. Other parents may have even sought the label because they believed the Felix-class children were getting better educational services than non-Felix children. But another group of parents, including many Hawaiian or Asian parents, refused to accept the IEP diagnosis and responded to the diagnosis by saying "my child is not mental." Thus, a generous diagnostic process could still produce resistance.

Moving along the continuum from more to less benign explanations, a third possibility is that the Felix case offered the local mental health agencies a new and seemingly limitless revenue stream. School IEPs had to include psychologists for testing and diagnosis—the results of which determined whether a child would reach a clinical threshold for a mental health issue or special education. The particular diagnosis would then determine what services would be offered.

A few more facts are needed to complete the picture. First, as may already be obvious, the Hawaii special education and mental health systems were woefully underfunded prior to *Felix v. Waihee*. Second, Hawaii was in the midst of a continuing recession, which also limited the cash flow to community mental health agencies and human service providers. Last, managed care and decades of decreasing federal support for social services further eroded the economic base.

With the Felix consent decree, psychologists became the critical gatekeepers to determine eligibility for state-funded mental health and social services. Once included in the Felix class, children would have to receive services, and those services would most likely be provided by community mental health and social service agencies. (In 1994, the Department of Health's budget for Felix-related cases was six times greater than that of the Department of Education.) It would not take too

long for a psychologist to determine that each child he or she diagnosed as belonging in the Felix class would then receive services from the psychologist or the psychologist's agency. The more open the gate, the larger the number of cases, and the greater the revenue.

Even if one opts for the most benign and altruistic explanation for the growth of the Felix class and the ensuing geometric increase in cost, it is clear that there is an inherent and fatal flaw in well-meaning federal residual social policies. That flaw is that the federal government creates an entitlement to resolve a social problem and then provides only a general framework to determine who is covered by the entitlement—leaving the details of the definition to the state.

Various forces work to pry open the gates with regard to eligibility, and before long, the residual policy becomes a gusher of spending and a virtual open-ended entitlement. Neither the federal government nor the state anticipates this growth, and they soon find that they have to fund the skyrocketing cost increases. As a consequence, states begin to siphon money off other programming. Thus, in Hawaii, school spending shifted from general spending to covering Felix-class costs. Some astute parents recognized this and fought to have their children included in the Felix class, thus spawning even more growth and more cost.

The vicious circle of residual policy eligibility is not unique to special education or mental health. It is endemic to many of the best-intentioned residual government social programs. The problem of abused and neglected children provides another stark example.

Child Maltreatment

If a picture is worth a thousand words, a graph may be worth about two hundred. Figure 1 presents the partial story of how child maltreatment was transformed from a personal tragedy, thought to affect fifty thousand or so children, to a social issue and finally a social problem that generated nearly three million reports of child abuse by 2000.

Until the 1960s, there were no laws that required professionals to report suspected cases of child abuse and neglect. Thus, national statistics were essentially non-existent. David Gil, a professor of social welfare at Brandeis University, was the first social scientist who tried to assess the extent of child abuse. In 1967, he conducted a national inventory of reports of child abuse and determined that there were six thousand confirmed cases.⁹ At the same time that Gil was conducting his survey, the physician C. Henry Kempe was campaigning to have mandatory reporting laws enacted throughout the United States. The Children's Bureau,

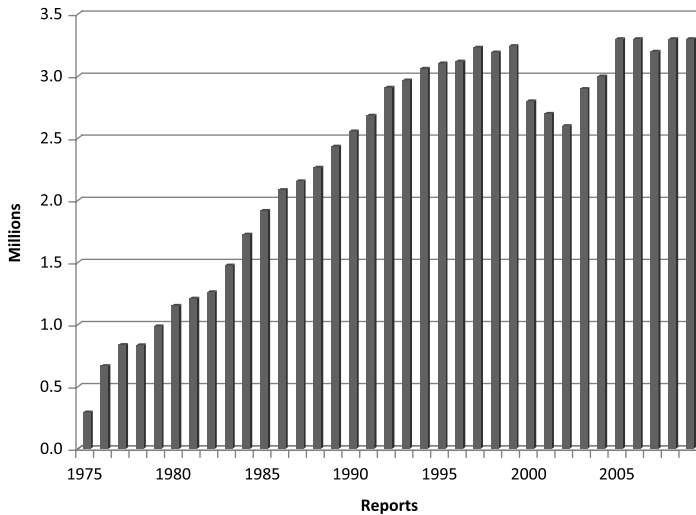


Figure 1. Reports of Child Abuse 1975–2009.

an agency within the then U.S. Department of Health, Education, and Welfare (the precursor to the U.S. Department of Health and Human Services), had developed a model reporting law. By the end of the 1960s, every state had some form of mandatory reporting law. The federal Child Abuse Prevention and Treatment Act (CAPTA) of 1974 attempted to standardize those laws by offering funds to states whose reporting laws conformed to the CAPTA stipulations.

Obviously, reports of child abuse and neglect could be expected to increase once mandatory reporting laws were enacted and standardized at the state level. Figure 1 depicts a rapid increase in reporting after CAPTA was enacted in 1974. The rate of increase slowed a bit in the late 1970s and then accelerated during the 1980s. What happened during that decade is at the core of this discussion.

Returning to the beginning of the 1960s for a moment, it is important to examine the individual tragedies and the social problem that concerned physician Henry Kempe and other activists. In his 1962 article “The Battered Child Syndrome,” published in the prestigious *Journal of the American Medical Association*, Kempe defined child abuse as “deliberate acts of physical violence that produce diagnosable injuries.”¹⁰ He and his colleagues were concerned with a relatively narrow phenomenon in which parents physically injured their children. The article itself included case examples and X-rays designed to help physicians differentially diagnose inflicted injury.

By 1974, the definition of child abuse and neglect had blossomed to include neglect, emotional abuse, and sexual abuse. Kempe's narrow definition of the battered child syndrome became the following, as stated in CAPTA:

...the physical or mental injury, sexual abuse, negligent treatment, or maltreatment of a child under the age of eighteen by a person who is responsible for the child's welfare under circumstances which indicate that the child's welfare is harmed or threatened thereby. (Public Law 93-237)

There was nothing sinister about the expansion of the definition. The definition expanded as well-meaning physicians, social workers, human service workers, and policymakers attempted to ensure that the residual policy covered the full population that required the services and resources granted by the law. The by-products of this well-meaning effort were similar to those of nearly all government residual social policies:

- Resources increase to meet the needs of the growing population included in the broad definition provided in the residual policy.
- Bureaucracies and personnel expand to meet the needs of the population covered by the residual policy.
- The expanded personnel and bureaucracies are able to identify even more cases, thus creating a cycle of growing caseloads, requests for more financial support, expansion of personnel and bureaucracies, and greater case-detection capability.
- The bureaucracies and personnel, firmly established and funded, advocate for an expansion of the definition for the residual class to be sure that *all those in need* of the residual services receive them.
- The bureaucracies and personnel depend on the caseloads to grow or at least remain high to maintain their level of staffing and financial support.

This series of events produces one of the governing rules of residual policies: *the problem never gets better*—assuming fewer in need constitutes “better.” Caseloads either must stay the same or grow in order to justify the residual problem's place on the public agenda. There is simply no incentive to reduce detection or caseloads. Of course, there is nothing necessarily wrong with greater case detection and larger and better organizational efforts. Thus, the growing number of child abuse reports could (and some people would argue, should) be considered a great success of government social policy.

Let us add some layers to Figure 1. Figure 2 represents the “pyramid” of child maltreatment reporting that has been typical in the years

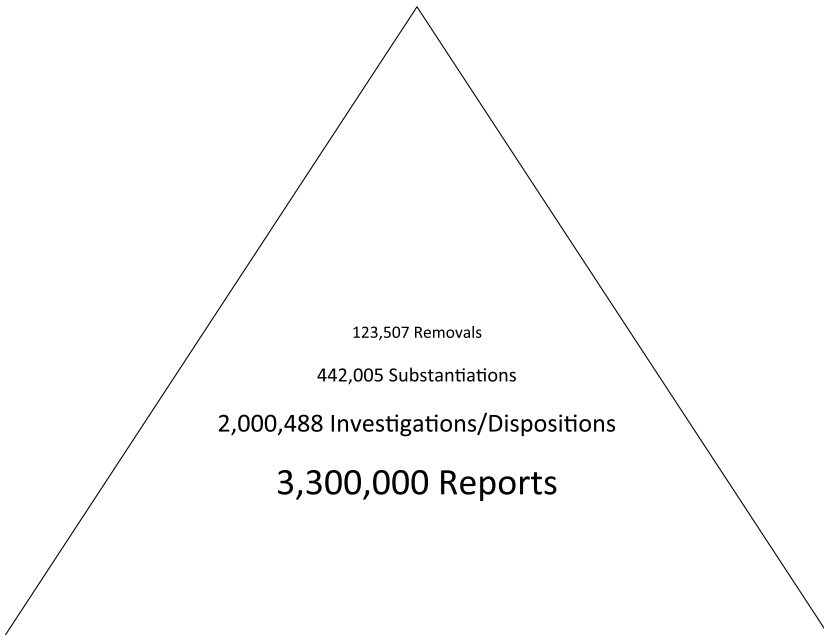


Figure 2. The Child Abuse and Neglect Pyramid.

between 1990 and 2009. In rounded numbers, we typically see that each year about three million children are reported as suspected victims of child maltreatment. Looking back at Figure 1, we see that child-abuse reporting had flattened out by the mid-1990s, suggesting that either most suspected cases of child maltreatment were being reported, or that that child welfare system had reached its full capacity to receive reports. Figure 2 demonstrates that in a typical year, child welfare agencies investigate 60 percent of child maltreatment reports. Thus, the gate is relatively open and the vast majority of child abuse allegations are followed up with some kind of investigation.

The next line shows that upon the completion of investigations, some 22 percent of all investigated reports are substantiated by the child welfare agency. The remaining 78 percent are closed. In some cases families are offered voluntary services, but in most cases their experience with the child welfare system is limited to the investigation.

It would require a long digression to explore in depth the implications of this process. Certainly, some children are, and continue to be,

at risk in homes where an investigation shows that the report cannot be substantiated. Reports that are unsubstantiated are not all false reports. And, of course, some cases that are substantiated really do not involve any risk or harm to children.

A second issue is whether there are consequences of an investigation that ends with an “unsubstantiated” finding. For families that have been falsely accused of putting their children at risk, there is the consequence of being unfairly stigmatized. On the other hand, in homes where risk and harm do exist but are undetected, perhaps the mere investigation may deter caregivers from further harmful behavior. There is actually no research on these issues, but they bear mentioning.

Returning to Figure 2, the first line indicates the children who are removed by child welfare services and often the police because of abuse and neglect. This number has been consistently at between 100,000 to 200,000 children each year—some of whom might be removed more than once each year. So what does Figure 2 tell us? That the child welfare system has generated a bureaucracy capable of responding to three million reports of child abuse and neglect in order that 100,000 children a year can be removed from harm’s way and an additional 200,000 families can receive social and human services. The most important conclusion is subtler: the child welfare system has invested so much in case detection and investigation that it doesn’t have enough personnel and fiscal resources left to offer actual help to children and families in need. As one seasoned child welfare professional concluded, the one, and perhaps only, service the child welfare system offers is an *investigation*. Thus, by investing effort and resources to maximize the residual population of children and families eligible for services, the child welfare system in fact unintentionally reduces the actual help it can provide to those most in need.

Can We Really Target Just Those in Need?

The process by which government becomes involved in helping those in need is both simple and complex. It is simple because, by its nature, the federal government is able to respond to residual social problems. It is complex because the path from personal trouble and injustice to social policy and efforts to help is often indirect, tortuous, and unpredictable. Nonetheless, one thing that is predictable is that once a personal trouble receives the imprimatur of the official government as a legitimate social problem, the definition of the problem will expand, the vagueness of legislative definitions will produce further expansion, and the human service providers who man the frontline gates will expand the problem

even more. These bureaucracies, like all bureaucracies, will evolve to be self-sustaining and thus will be best organized to identify more cases and keep the gates open for admission. The growth of the caseload will offer proof that more resources are needed, and so on. Of course, since resources are finite, the investment of resources at the case-detection/admission level will ultimately dilute the human and fiscal capital available for actual interventions.

One of the most common criticisms of government social programs is that residual programs can evolve into large open-ended entitlements. In Hawaii, the costs associated with complying with the Felix consent decree constituted one-eighth of the Hawaii General Fund Budget in 2001. One-eighth of the state budget went to twelve thousand school-age children who make up 0.009 percent of the state's population.

Attempts to push back on the expansion of eligibility criteria or costs are often met by a response similar to the one Dave and Betsy Cole of East Matunuck, Rhode Island, received from the local school committee. The Coles pointed out to their hometown newspaper, *The Narragansett Times*, that according to the superintendent of schools in South Kingstown, Rhode Island, special education costs were \$30,000 per year per student.¹¹ In all, 20 percent of the students in the system had been identified as needing "special education." Thus, the proportion of the school budget for special education was more than half of the annual school system budget. The Coles went on to argue that receiving a "special education label" was relatively easy, that it was more common when students were in large classes, and that in one family each of the nine children was labeled "special education." The school committee's response to these data was, "It's the law, and there is nothing we can do."

If there is one major reason that government programs so often fail to help, it is the inherent inefficiency and lack of precision of the eligibility gates that form the core component of residual government policies. The welded open eligibility gate and the predictable new costly entitlements undermine the good intentions of the programs by diluting the available resources and diminishing the effectiveness of the proffered assistance.