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An Historical Policy Examination of the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272)

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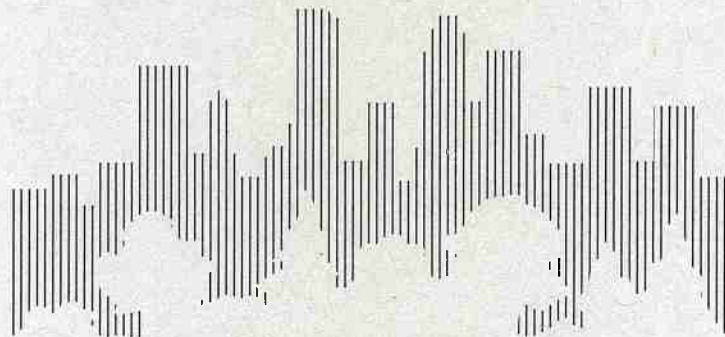
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MASTERS IN SOCIAL WORK THESIS

Douglas E. Dooley

**An Historical Policy Examination
of the Adoption Assistance and Child Welfare Act
of 1980 (P.L. 96-272)**

**MSW
Thesis**

Thesis
Dooley

1997

**An Historical Policy Examination of The Adoption Assistance and
Child Welfare Act of 1980 (P.L. 96-272)**

Submitted to the faculty of the Graduate School of Augsburg College

by

Douglas E. Dooley

In partial fulfillment of the requirements for the degree of

Master of Social Work

Minneapolis, Minnesota

1997

Master of Social Work
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Minneapolis, Minnesota

CERTIFICATE OF APPROVAL

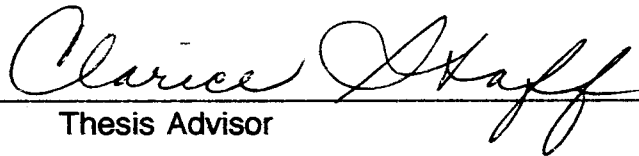
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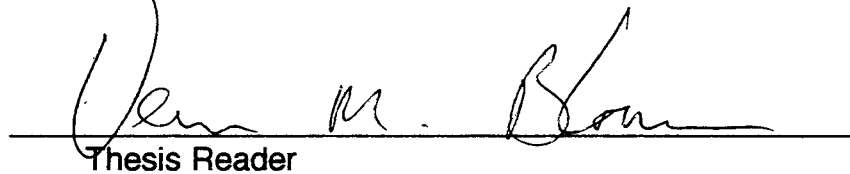
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Thesis Advisor


Thesis Reader


Thesis Reader

For Ginny, who encouraged me.

For my children, Jessica and Nathan, who understood.

For my father, who inspired me, and

For my mother, who assured me that
all things are possible.

Abstract of Thesis

**An Historical Policy Examination of the Adoption Assistance and
Child Welfare Act of 1980 (P. L. 96-272)**

Historical Policy Analysis

Douglas E. Dooley

March, 1997

The Adoption Assistance and Child Welfare Act of 1980 (AACWA) (P.L. 96-272) was the first federal legislation that provided for family preservation services.

This study reviews the antecedent period between 1860 and 1980 to examine the policy trends in child welfare legislation and programs. DiNitto's (1983) incremental policy process is examined to show the evolution of how the issue of family preservation services became the focus of the federal government through the AACWA.

The dual philosophies of child rescue and services to the child and family are examined through the review of selected past legislation and programs. The reader is shown that the response to child welfare needs also changed over time.

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Chapter I

INTRODUCTION

Family foster care and the provision of social services to families in their own homes has a long history in the United States. Family foster care began as an effort to “rescue” children who were dependent or whose parents were “inadequate” and dependent on charity, and evolved to a temporary service whose purpose was to reunite children with their families or place them with another family in which they could grow up. Assisting families with the task of providing an “adequate” home for their children was first officially addressed by the Federal government in 1909 at the first White House Conference on Children.

The White House Conference on Children had been called to consider the plight of “dependent” children and to formulate policies for meeting their needs. Its most prominent declaration was that every child is entitled to a “secure and loving home,” preferably with his or her own biological family. Efforts to achieve this goal created a complex child welfare system that evolved to encompass both government and voluntary agencies (Pecora, Whittaker, Maluccio, 1992). It became apparent by the 1950’s that the goal of a “secure and loving home” was not being realized for many children despite fiscal and other resources. Foster care placement had become a permanent status for many children who were going from one placement to another, with little sense of stability in their living arrangements. By the 1970’s, there was pressure to reform the child welfare system because demonstration projects provided evidence that many children who were “adrift” in the foster care system could be returned to their families of origin through intensive agency services (Pecora, Whittaker, Maluccio 1992).

The permanency planning movement of the 1970's came out of these events. It is also known as family preservation and is defined as "the systematic process of carrying out, within a brief time-limited period, a set of goal-directed activities designed to help children live in families that offer continuity of relationships with nurturing parents or caretakers and the opportunity to establish life-time relationships." (Pecora, Whittaker, Maluccio 1992).

Preserving families rather than placing children in substitute care has become a major focus of federal policy makers and national child service providers in recent years. The passage of The Adoption Assistance and Child Welfare Act of 1980 (AACWA) (P.L. 96-272) provided a vehicle for reform of the foster care program through administrative and judicial review and provided federal adoption assistance for children with special needs. Though a requirement to make "reasonable efforts" to prevent placement was included in the legislation, this requirement was mostly ignored for nearly the first decade of implementation. Federal and state energies were devoted to moving children out of the substitute care "warehouses" and to control "drifting" within the foster care system (Fraser, et. al., 1991). Efforts to reduce the number of children in out-of-home placements through "permanency planning" prior to legislation, succeeded in reducing the number of children in foster care in the United States from 500,000 in 1976 to 276,000 by 1982 after the legislation, through programs and services known as family-based services (FBS) or family preservation services (FPS) (Pecora, Whittaker, Maluccio, 1992).

In its broadest sense, permanency planning refers to activities undertaken to ensure continuity of care for children, whether that be action to keep families together, to reunite families, or to find permanent adoptive homes for children (Maluccio, Fein, & Olmstead, 1986).

Family Preservation and P.L. 96-272

The main focus of P.L. 96-272 was to reform child welfare services by promoting permanency planning for all children and youth coming to the attention of child welfare agencies. The law's priorities were: 1.) provide supports to families in order to prevent separation of children from their families; 2.) where separation is necessary, provide support services to enable children to be reunited with their families, and 3.) where reunification with the child's own family is not possible or appropriate, provide services that enable children to be adopted or placed in permanent foster homes with some form of legal protection (Pecora, Whittaker, Maluccio, 1992). To accomplish these three priorities, the law incorporates a number of procedural reforms and fiscal incentives which are:

- * provision of pre-placement and post-placement services to keep children in their own homes or reunite them with their families as soon as possible (no time frame was mandated).

- * a requirement of case plans, periodic reviews of those plans, management information systems, and other procedures to ensure that children are removed from their homes only when necessary and are placed in permanent families in a timely fashion;

- * redirection of federal funds away from inappropriate foster care placement and toward permanent alternatives;

- * establishment of adoption assistance programs, specifically federally funded subsidies for adoption of children with special needs.

Implementation of The Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) is mandatory if states are to receive funds to support their services to children. The federal law has come to shape the philosophy of

nearly all child welfare agencies, particularly for placement prevention and serving children in out-of-home care. To some advocates, permanency planning has evolved almost as a definitive solution to the many recurrent issues in child welfare. As documented by Barth and Barry (1990) in their review of the outcomes of permanency planning after a decade of implementation, child welfare practice had changed but not to the extent envisioned by the law and its proponents.

Research by Barth and Barry (1990) assessed the results of permanency planning outcomes such as reunification, adoption, guardianship and long term foster care. For example, they found that children who are reunified with their family are most poorly served under permanency planning when compared to those children who are placed for adoption. According to Barth and Barry, those children and families deserve increased and longer-lasting services. Adoption of older children appears to be meeting its promise as documented by Barth and Barry (1990) and deserves continued emphasis.

Pecora, Whittaker, and Maluccio (1992) also report that more children are going into foster care than in years past and remaining there longer, have more problems and come from more dysfunctional, multi-problem families. Whereas earlier agencies were more likely to remove children too quickly and inappropriately from their homes, they are now more likely to keep children inappropriately with their parents. Foster care is often used as a last resort rather than as part of a careful treatment strategy of respite care to keep children and families together which illustrates how foster placements continue to be determined inappropriately. This dilemma underscores the tension in this design of the two-pronged responsibilities of child welfare: child protection, and child and family preservation.

The funds to accomplish the preventive and rehabilitative work that P.L. 96-272 mandated have never been provided at the federal level. These funds that were appropriated after the passage of P.L. 96-272 were not delivered because of the passage of the Omnibus Budget Reconciliation Act of 1981 which gave less funding because of the capped amounts in the form of block grants to the states.

Purpose of the Study

The purpose of this study is to examine how the Family Preservation movement evolved through a number of public policies to the culmination of the passage of the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272). This study will also explore the trend of who was responding to child welfare issues and in what form practice and programs took over the years between 1860 and 1980.

This study utilizes a synthesis of historical research and retrospective policy analysis as the methodology.

In Chapter Two a number of social policy definitions are stated to give a framework to the analysis of P.L.96-272. There are select definitions of historical research. The procedures and design for data collection and analysis are discussed in Chapter Three as well as a discussion of the research method.

In Chapter Four, the historical context of the study is revealed as several key pieces of legislative policy and private program innovations are discussed between the years of 1860 and 1980. The chapter will introduce two emerging philosophies about the care of children and families, and will show that the federal government progressively assumed more responsibility through various social policies.

In Chapter Five P.L. 96-272 will be examined: how the issue of

preserving families found a place on the public agenda and who were the actors involved in its passage. The Congressional hearings and the original provisions of P.L. 96-272 are explored with the intent to address the research questions and increase our comprehension of the process of this policy's formulation.

Chapter Six examines the findings surrounding the implementation of P.L. 96-272 and the implications for social workers.

Research Questions

The primary assumption of this study is that the nature of social policy is not a rational planning process but is an incremental, adaptive planning process that responds mostly to "crisis" situations and the influences of the contextual environment (DiNitto 1991).

DiNitto (1991) contends that the ultimate program design and provisions of a policy mirror the dominant social, cultural, economic and political values of the specific time periods in which it is or was developed and implemented.

The study's research questions are : 1.) was the enactment The Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) a result of an historical incremental process of responding to child welfare needs? 2.) what were the changes in programmatic design that led to the passage of AACWA (P.L. 96-272)?

Chapter II.

THEORETICAL FRAMEWORK

This chapter presents a review of social policy definitions and historical research definitions to acquaint the reader with the scope of the models that guide this study. This review defines the meaning of social policy and historical research for the purpose of establishing a theoretical framework for this analysis.

Social Policy Defined

Political scientist Charles Lindblom (1959) first presented an incremental model of policy-making as a critique of the rational model. Lindblom observed that government policy makers do not annually review the entire range of existing and proposed policies, or identify all of society's goals, or research the benefits and costs of all alternative policies to achieve these goals. They, therefore, do not make their selections on the basis of all relevant information as suggested by the rational model. The incremental model recognizes the impracticality of comprehensive rational policy making and describes a more conservative process of public decision making (Lindblom, 1959).

Titmuss (1974) stated that "policy can be taken to refer to the principles that govern action directed towards given ends therefore, implies change: changing situations, systems, practices, behavior" (p. 23).

Gil (1976) provides a broad definition : "Social policies are principles or courses of action designed to influence the overall quality of life in a society and the circumstances of living of individuals and groups in that society and the nature of intra-societal relationships among individuals, groups, and society as a whole" (p. 24).

Baumheier and Schorr (1977) define social policy as principles and procedures that guide any course of action dealing with individuals and aggregate relationships in society. It includes problems of groups as well as individuals in relation to society.

Because social policy also is concerned with the social consequences of policies in other areas, the separation of social policy from tax, defense, or farm policy is less clear than may appear. They state that social policy represents "a temporarily settled course of action with regard to selected social phenomena that govern social relationships and the distribution of resources within a society" (Baumheier & Schorr, 1977) (p. 42).

Mayer and Greenwood (1980) defined policy-making simply as "the social process in which multiple actors, aided with technical information, interact to formulate policy" (p. 5).

Lindblom (1980) states that "policy-making is an extremely complex process without beginning or end and whose boundaries remain uncertain. A complex set of forces together produces effects called "policies".

Borrowing from and synthesizing the elements in the aforementioned definitions, this study will rely on a definition proposed by Charles Lindblom as referenced by DiNitto (1991). For the purpose of this study, DiNitto's (1991) argument that policy-making occurs in a political context which places severe limits on rationality is the argument that is pursued. By political context, DiNitto means that social welfare policy arises out of the conflict over the nature of the problems confronting society and over what should be done about them.

The political approach raises questions about rationality in policy making, in that it challenges the notion of agreed upon problems, social values, costs and the prediction of consequences of various policy alternatives. It

further states that policy makers are not necessarily motivated to make decisions on the basis of social values, and that they often have their own needs, ambitions and inadequacies.

Large segmented government bureaucracies create barriers for legislators attempting to develop coordinated policy making. A complexity emerges when considering the goals and objectives of each segment; these various goals may be in conflict.

DiNitto further states that policy making is actually done in an incremental model. DiNitto cites Lindblom's definition of incremental policy making as one in which policy makers consider existing policies, programs and expenditures as a base. They concentrate attention on newly proposed policies and programs, on budgetary increases or decreases, and their modifications to existing programs. Incremental policy makers generally accept the legitimacy of established policies and programs. Under conditions of uncertainty, policy makers continue past policies or programs whether they have been proven effective or not.

DiNitto contends that only in a crisis do political decision makers begin to consider new and untried policies as preferable to existing ones.

Historical Research Defined

Historical research is a methodology to establish facts and arrive at judgments pertaining to past events (Castetter and Hersler, 1984).

For the purpose of this study, the definition of the purpose of historical research by Isaac and Michael (1983) is utilized. They state that historical research is an attempt to reconstruct the past objectively and accurately, often in relation to the tenability of an hypothesis. That hypothesis is linked to DiNitto's contention that social policies mirror the dominant social, cultural, economic

and political values of the specific time periods in which they are developed and implemented. For example, when the Social Security Act of 1935 was passed, there was a programmatic distinction made between single mothers who were widowed (worthy poor) and those single mothers who had never been married (unworthy) because of the moral climate of this country and its perception of unwed mothers.

In this study, the reconstruction of the past is in relation to historical events leading up to and including the passage of P.L. 96-272.

Chapter III

METHODOLOGY AND PROCEDURES

This chapter will describe the research method, procedures for data collection and the design for the data analysis.

Description of the Research Method

The historical research method with the application of retrospective policy analysis as the means of investigation is the methodology used in this study. This methodology has been used in other studies, most notably the study of Federal Aid to Dependent Children by Turner (1993).

This research method was selected because the purpose of the study required a review of past events associated with the evolution of family preservation policies and programs. Trends in federal policies and their relationship to the passage of P.L. 96-272 are compared over a period of more than one hundred years.

Procedures for Data Collection

Primary data collection sources for the research included, but were not limited to, the following: congressional records, legislative history, House and Senate reports, weekly Presidential documents, and various government studies.

Secondary data sources included books, research studies, social work and other professional journals, and conference proceedings. These items were searched to reconstruct the events for selected periods of the past.

The nature of the study dictates that significant time periods be examined in relation to events and policies affecting family preservation. This study chose to review the early efforts of the Charity Organization Society, the U.S. Children's Bureau, the Social Security Act of 1935 and its 1962 amendment,

the St Paul Project of 1953, Maas and Engler's study on the foster care system in 1959, and the Child Abuse Prevention and Treatment Act of 1974 as the antecedent efforts in relation to family preservation; however not all aspects of these policies or programs will be discussed.

Design for Data Analysis

The design for analysis of this study includes a review of the selected antecedent time periods and how they created an environment for new federal legislation. To examine P.L. 96-272, three areas will be highlighted: the historical antecedent to the policy, who was the focus of the policy, and the various public and private response to the problem. This examination will reveal the facilitating and constraining factors in seeing this legislation passed and what motivated each political faction.

Chapter IV.

HISTORICAL CONTEXT

Between 1860 and 1980, two areas of the past were reviewed: (a) policies and provisions of public aid for children and families and (b) the trends and responses of public welfare and private charity to the issues of family reunification.

Historical Shifts in Child Welfare Policy

Although this historical period is expansive, this chapter describes selected events that had an impact on the foster care and family preservation movements, illustrating a two pronged approach to child welfare. The mission to provide safety to children and the mission to provide services for children within the family will be emphasized. The chapter does not attempt to provide a comprehensive history of all relevant events before 1980 and the passage of P.L. 96-272.

1860 - 1900: Local Responsibility for Needy Children

In the early years of this nation, people who could not maintain their families economically were considered the responsibility of the local township. During this time, children experienced many of the same challenges as children today such as mental retardation, physical limitations, and incorrigible behavior without the benefit of today's health care advancements. Some children were orphaned by epidemics and by other disasters of the frontier. The methods of treatment within a community were simple. The youngest children who required support by the town were "farmed out" to the lowest bidder. Older children were indentured or placed under contract with a citizen of the town who agreed to maintain a child and teach him or her a trade or other gainful occupation in return for the profit from the child's labor. Other children were

sent to live in the almshouses with the adult mentally ill, lawbreakers, and the aged and infirm (Costin, Bell, Downs, 1991).

In the 1870's, responsibility for certain classes of the poor, whom the local units of government were unwilling or unable to care for, began to shift from local governments to state governments. Children began to benefit from this shift of responsibility to the State. Specialized state institutions were established in the 1870's: reform schools and training schools for children who were blind, deaf, or mentally handicapped. The increased activity pointed out the need for a central agency at the state level to coordinate the administration of these welfare programs. In 1863, Massachusetts was the first state to establish the State Board of Charities, a central agency for the supervision of all public and private charities within that state (Costin, Bell & Downs, 1991).

While the government response to the needs of children was changing, so was the response of the private charity organizations. Because of repeated investigations concerning the conditions within state institutions, a new approach to care for children began called free foster homes. The concept was begun by Charles Loring Brace, who established the Children's Aid Society in New York in 1853. He recruited "good Christian homes" located in rural areas of the Midwest and upstate New York to care for homeless and destitute children that were picked up on the streets and shipped out in trainloads from New York City.

Martin Van Buren Van Arsdale established a statewide voluntary agency the Children's Home Society in Illinois in 1883. They provided foster homes for dependent children. These efforts were widely replicated around the United States which institutionalized foster care and is the model that continues today.

In 1877, The Friendly Visitors program promoted individual reform by

sending volunteer “friendly visitors” into the homes of poor people to provide advice and to serve as role models for parents was founded. This program was the first systematic effort to promote family well-being by the provision of individual case work. This case work provided a need for further training of the volunteers which led to the development of the social work profession some twenty years later in 1898 at the New York School of Social Work (McGowan, 1990). The structure of providing in-home support and out of home care was evident by the 1890's. The private helping agencies of this time were organizing into two seemingly opposing philosophies as how to best serve children and families. The foster care concept or “child saving approach”, and the Friendly Visitor program which could be considered the first family preservation program were clearly two practice methods designed to promote the welfare of children. The direction of child welfare for the local, state and soon the federal governments, was set by private charities within these two philosophies (Costin, Bell and Downs, 1991).

1900- 1940: Emerging Presence of the Federal Government

The twentieth century brought the beginning of a period of social reform in which the federal government showed its commitment to the welfare of children by assuming certain responsibilities for their welfare. During the early 1900's, the juvenile courts were established, mother's pension laws were enacted in various states, and child labor laws were enforced. The first White House Conference on Children in 1909 led to the establishment of the U.S. Children's Bureau in 1912. Through the work of such national leaders as Jane Addams, Julia Lathrop, Lillian Wald, Florence Kelley, and Grace and Edith Abbott, the White House Conferences on Children were established.

The first White House Conference was held in 1909 and President

Theodore Roosevelt invited workers in the field of child welfare from all over the United States to come to the White House and confer on "Care of Dependent Children." This effort was the first federal recognition of the need for national policy in regard to children.

One recommendation of this conference was that the piecemeal legislative efforts of various states should be overseen and coordinated by the federal government. As a result, the Children's Bureau was created on April 9, 1912 by congressional legislation and was charged to "investigate and report upon all matters pertaining to the welfare of children and child life among all classes of our people" (Bradbury & Ottinger, 1962, p.1). Fact finding, investigation, and reporting were the original tasks of the bureau. The bureau staff assumed a role of consultant with the states in an attempt to stimulate and guide their efforts to develop better programs of child welfare (Costin, Bell & Downs, 1991).

The large number of infant deaths was one of the first causes that was addressed by the U. S. Children's Bureau. Findings from the scientifically based infant mortality studies conducted by the U.S. Children's Bureau led its first director, Julia Lathrop, into the investigation of maternity issues and the circumstances under which all women gave birth.

These studies found that childbirth in 1913 was a greater hazard to the lives of women of childbearing age than any disease except tuberculosis, with a death rate almost twice as high in the black as in the white population. Inaccessibility to safe medical help in many areas of the United States was a factor in the low standards of prenatal and early infant care. Black midwives in the South and immigrant midwives in the inner cities often provided the only infant care. In contrast to the European system of licensed midwives educated

for their work, most of the midwives in this country were completely untrained. Poverty and its relationship to the loss of infant life also appeared in the first studies conducted by the Children's Bureau.

This early work of the Children's Bureau finally led to the passage of the Maternity and Infancy Protection legislation (termed the Sheppard-Towner Act) in 1921. The law provided for federal matching grants to the states for the purpose of reducing the incidence of maternity and infant mortality. Interestingly, the Sheppard-Towner Act was allowed to lapse in 1930 as President Hoover preferred voluntary charity as a means to address the needs of infants and their mothers (Costin, Bell & Downs, 1991). Although the 1920's were a time of prosperity, the stock market crash of 1929 pushed the country into its greatest economic depression.

The U.S. Children's Bureau continued to be the single most child focused federal agency for many years. It was one of the driving forces of many federal child welfare policies, including the issue of child abuse later in the 1950's. Ironically, because of the federal government's expanding role in child welfare and the growing number of tasks the government took under its jurisdiction, the Children's Bureau was stripped of almost every task for which it had been established. It lost the responsibility for child welfare services and much of the research done was "reorganized out" as many other agencies, such as Health, Education, and Welfare (HEW), were created.

Although the Sheppard-Towner Act was allowed to lapse in 1930, the federal government had taken a decidedly active role in child welfare. The country was now in a major economic depression but a major piece of federal legislation that affects much of our child welfare policy today was on the horizon: the Social Security Act of 1935.

After the 1909 White House Conference on Children, many states passed Mother's pensions legislation. This program of financial assistance was to provide for the care of the needy, dependent children in their home instead of in costly institutions. At this time, there was a policy shift that recognized the importance of a child's own home and the need for family life experiences.

Prior to this time, public relief consisted mostly of coal or grocery orders or emergency medical care. Some major cities of the time, such as Detroit and Baltimore, had abolished public relief offices because of mismanagement and public disapproval. Private agencies sometimes had the funds for emergency help but provided no permanent security (Costin, Bell and Downs, 1991).

Not only was there a concern for children losing their homes, but public officials also realized that paying for children to live in an institution was costlier than furnishing a small amount of aid to maintain them in their own homes (Costin, Bell & Downs, 1991).

Mother's pensions encountered two major problems: 1) the enactment of laws by the various states did not necessarily ensure that a program would be put into effect and 2) there were conflicts concerning what kinds of mothers were entitled to public assistance under the program.

State legislation was "permissive" or "enabling" legislation in that local units of government could establish programs and expend public funds for such a purpose. If such programs were enacted, the implementation of programs depended on local leadership and the financial ability of the township.

In regard to the second problem, it was generally agreed by the law makers that it was necessary to separate the deserving and worthy mothers from those deemed to be ineligible for receipt of funds. States could define by law the particular status required to be eligible (widows, divorced) or they could

conduct an investigation of the character of each mother to make sure that she was “morally fit” to raise her children. For example, a Children’s Bureau study of states administering mother’s pensions showed that 82% of those given aid were children of widows (U.S. Children’s Bureau, 1933, p.25, in Costin, Bell & Downs, 1991).

The Great Depression of the 1930’s furnished the political impetus for the passage of the Social Security Act (SSA) of 1935. The need for economic security for all people emerged as the most compelling influence for this federal legislation. The Economic Security Committee appointed by President Roosevelt reported in 1935 that some of the “hazards” that affected most people in the United States were unemployment, old age, ill health, premature loss of the family breadwinner, industrial accidents, and lack of training. The facilitating factors that led to the passage of the SSA were the need for state fiscal relief, the favorable political climate in both houses of Congress, and the support of social welfare associations and charitable organizations. With the passage of the Social Security Act of 1935, federal government assistance was available to states for the implementation of work programs, financial assistance to the aged, needy children and others who met eligibility requirements and were included in an approved State Plan (Turner 1993).

A provision in the Social Security Act of 1935 was Title IV, Aid to Dependent Children (ADC). When this program was adopted, it was seen as public assistance, as opposed to a child welfare program, with the purpose to make funds available to single parents so that they could be restored to carrying out their parenting responsibilities to their children (Costin, Bell & Downs, 1991). The role of the federal government was one of a “facilitator” and the intent was to supplement, but not supplant, existing or new state programs.

The ADC payments were to be made to an adult to care for dependent children. A dependent child was defined as follows:

child under the age of sixteen who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is living with father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle or aunt, in a place of residence maintained by one or more of such relatives as is his or their own home (Section 406 of Title IV of the Social Security Act, 1935).

The Act did not stipulate a payment amount for the dependent child. The amount was to be determined by each state. It was agreed by the policy makers that the grants must provide a reasonable minimum subsistence, but that they may be as small as states may choose to make them (Turner, 1993).

The preamble of the Social Security Act states that it is "to provide for the general welfare by enabling states to make more adequate provisions for dependent and crippled children" (National Conference on Social Welfare, 1985). Title IV of the Act further narrows the broad goal of "enabling states to make more adequate provisions" by stating that the grants to states for ADC were "for the purpose of enabling each state to furnish financial assistance, as far as practicable under conditions in such state" (National Conference on Social Welfare, 1985).

Since public laws contain general language and depend on the written regulations developed by the executive branch of government, it is hard to measure the achievement of the policy goals of the ADC program (Turner, 1993). What then were the driving forces to enact such a broad encompassing

law?

Because widespread economic depression followed the crash of 1929, many states were providing public aid beyond their means and looked to the federal government for assistance.

Prior to the passage of the Social Security Act, the Federal Emergency Relief Act was passed in 1933 as a way to assist states with the costs of high unemployment. It did not directly attend to the needs of children. Katherine Lenroot of the U.S. Children's Bureau was the driving force to have Title IV added to the Social Security Act. She stated that families whose breadwinners were absent had "economic insecurity problems" that were not addressed by the program of social security for the unemployed, work programs, and private industrial recovery programs (Turner, 1993).

The Committee on Economic Security explained the need for ADC and directed that "most special attention must be given to the children deprived of a father's support who usually are designated as the objects of "Mothers' Aid" or "Mothers' Pensions". In 1937 the number of recipients of Mothers' Pensions had reached 700,000 nationwide (Bremner, 1974). These existing programs provided the structure for the implementation of the ADC program.

With this information, it would appear that the ADC program was an incremental policy response to a "crisis" as noted by DiNitto, as well as a policy that most directly responded to the needs of children. It is important to note that the ADC program would have problems in its implementation but that it would remain as a driving force in the funding of child welfare programs. On the horizon were changes in how society viewed "families in need" and how best to help them.

1940-1962: New Approaches by Government and Private Agencies

The Family Centered Project of St. Paul, commonly referred to as The St. Paul Project, is one of the first known attempts at researching and treating multi-problem families that relied on local government funding (Nelson & Landsman, 1992). In 1947 three local coordinating councils studied and approved Bradley Buell's proposal that the city of St. Paul, Minnesota make a social accounting of the total number of families served by all governmental and voluntary agencies in Ramsey County during a given month. The local Planning and Research Council was instructed to supervise the study conducted by the collaborative efforts of private and governmental agencies, known as the Family Unit Report Study (FURS). The results of this study led to a plan for treatment of families that required a disproportionate share of the total community welfare services.

The study showed that a small percentage (6%) of families took a disproportionately large share (50%) of social welfare services and that there was a high concentration of serious problems such as dependency, ill health, and maladjustment in these relatively few families (Birt, 1956). The study also revealed that many agencies had been working concurrently with these families over an extended period of time but that treatment had been fragmentary, episodic, individually oriented, and on an agency-by-agency basis, and in response to the particular symptom that was causing trouble either to the family or the community at the time. All of this fragmentation continued even though case conferences among agencies were common and attempts had been made, through council committees to define areas of agency responsibility (Birt, 1956). With community members from the fields of medicine, casework, research, psychiatry, public welfare, and community organization, a four point system of implementing an operational program was defined for the St. Paul

Project. The four points were: classifying families that were potentially "treatable"; establishing detection centers for uncovering "hard core" families; development of a coordinated plan of diagnosis and treatment; and working agreements with public and voluntary casework agencies on a coordinated basis through family centered treatment concepts (Birt, 1956).

As a collaborative effort, The St. Paul Project had many unique features: no new agency was created, voluntary and public agencies carried cases from the public case load, the size of case loads for each worker was the same, and functional roles in the project were identical. The assumptions for the basis of receiving treatment were that these families could be helped by social casework methods but that service methods would need special adaptations.

Workers would have to go out to the homes of families and the work centered on the whole family in its home environment. One worker served as a bridge between the family and specialized community resources, utilizing each of the services as needed and in relationship to the over-all treatment plan (Birt, 1956).

The project also hoped to learn how welfare services might be organized better and to plan what agency should ultimately have responsibility for providing services to which family.

The project also knew that predetermined plans did not work and that agencies must have responsibility for implementing whatever plans were developed. Much of the same design is evident in the "wraparound" service model being embraced in child welfare services today.

The St. Paul Project experienced many operational problems working with the participating agencies. It was in essence an operating unit to encourage and chart a new way of practicing social casework. The case-

workers remained administratively responsible to their parent organizations. However, individual agency administrators did not have the opportunity to become acquainted with the requirements and purposes of the project. Defining specific techniques to facilitate the process was not as easy as determining where the function of one agency would end and another would begin. Referrals were made without careful diagnostic appraisal and before the family was motivated to make real use of the services (Birt, 1956).

The project encountered and identified many problems and was ultimately unable to gather enough support and funding past the fifth year of operation in 1959. There were offshoots that developed and the project did continue as a program of the Wilder Child Guidance Center in a less encompassing and home based model. But in 1954 when the project model first got off the ground, the collaborative effort of various community agencies was a novel approach to serving families and children and brought public and private agencies together for a common mission.

By the 1950's, foster care was a temporary service on the policy level but not so in practice. In the 19th century foster care was seen as a means of "rescuing" children from "inadequate" parents; in the 20th century it came to be considered as a temporary service whose purpose was to reunite children with their families .

In 1959, Maas and Engler conducted a study of children in foster care from which the book "Children in Need of Parents" was published. The term "foster care drift" was used in that study and is defined as children going from one placement to another with little sense of stability or continuity in their living arrangements (Maas & Engler, 1959).

Maas and Engler also found that children were inappropriately moved

out of their homes with little effort to help the parents to care for them. Most children came from poor families that were surviving on limited income from public welfare. They stated that there was a conviction among most professional child welfare workers that every child has a right to his or her own parents and that if his or her own parents have proved inadequate, the child should, if possible, be provided with permanent substitute parents, ideally, through adoption. They also found that when children are placed in foster care for more than eighteen months, the possibility for reunification with the family is greatly jeopardized.

Five recommendations and observations came from the study and they were:

1. Preventative Services. In order to keep families intact, every community must provide a wide range of service, including financial assistance, marital counseling, psychiatric service, homemaker service, and day care. The single most important cause of foster placement of children is marital breakdown. Only one fifth of the parents of children in foster care were married to each other at the time of the study.
2. Adoption. Only a fraction of children in foster care have a possibility of returning to their own homes and the alternative for the rest of the children is either adoption or long term foster care. Parents should not be permitted to abandon their children in foster care and yet retain legal control over them. It is one of the first priorities to clarify each child's legal status and to sever parental rights in all situations where it is obvious that the parents will never take responsibility for the child.
3. Long term foster care. Communities must recognize the need for strong professional foster care services for the children who, when

adoption is not possible, will stay in foster care throughout their remaining childhood years. Foster care that protects the child's emotional health is required.

4. Legal Problems. Communities need to examine carefully legislation affecting children to make sure that the rights of both children and parents are protected. Research needs to be conducted on what happens to the child of an unmarried mother who retains parental rights. How successful is she in providing a permanent home for her child? How many such children eventually find their way into foster care?

5. Agencies and their Communities. Agencies are but one small segment of a community and cannot assume the entire responsibility for children who are in need of parents. In some communities, there is a tendency to protect or maintain the community wide sense of well being by ignoring dependent children on the one hand or rejecting them on the other. It is particularly evident that in many communities, services for minority groups are much less available than for the majority group. It is very important for agencies to learn and then to make use of the facts of composition of communities, so as to discover which groups in the community are the most likely to be responsive to the needs of dependent children and the most receptive to the human problems entrusted to them (Maas & Engler, 1959).

As a result of these findings, questions were raised about the effectiveness of the child welfare system. During the late 1950's, other developments such as the civil rights movement, led to the child advocacy movement and to the concern about the rights of children and parents. There was the definition of physical abuse which led to expansion of child protection

services and inevitably an increase in the numbers of children being placed in out-of-home care (Pecora, Whittaker and Maluccio, 1992).

How to best deal with the rising need for out of home placements and other services for families, according to the federal government, is examined through the amendments to Title IV of the Social Security Act of 1962 and subsequent federal legislation.

1962-1980: The Federal Government: A Force In Keeping Families Together

In February of 1962, President Kennedy outlined his public welfare program in a special message to Congress. The new law was known as the "Social Services" Amendments that had an emphasis on prevention and rehabilitation and encouraged states to provide social services as well as cash payments to families. The heading of Title IV of the Social Security Act was amended to "Grants to States For Aid and Services to Needy Families with Children" striking out "aid to dependent children" (ADC). In its place was inserted "aid to families with dependent children" (AFDC) which was a shift of focus from the child to the child and family (Turner, 1993).

The purpose of the amendment was to encourage the care of dependent children in their own homes or in the homes of relatives by providing financial assistance and other services. The amendment also authorized federal financial participation for a second adult if the second adult was either the spouse of the first adult, or an incapacitated parent of at least one of the children. Federal payments for foster home care of dependent children and community work and training programs were added as well.

Another provision of the new legislation was that of closer coordination of Child Welfare Services with Aid and Services for Needy Families with Children

for prevention or remedying of problems arising from neglect, abuse, exploitation and delinquency. Provision for adequate care of children away from their own homes in foster family homes, day-care and other child-care facilities was included as well as making the AFDC amendment of foster care a permanent part of legislation (P.L. 87-543).

The importance of this amendment to the family preservation movement was that it is the first time federal legislation offers services to keep families together and signals the acknowledgement by the federal government that not only is children's welfare important, but also that of their families.

This amendment signaled the start of the federal government's active role in the lives of dependent and needy families. President Johnson's "War on Poverty" was launched with the 1964 Economic Opportunity Act which provided for food stamps, Medicare, Medicaid, Manpower and Training Program and public housing supplements. These programs represented an extension of the service strategy with an emphasis on community action programs and Kennedy's philosophy of "self support and self care" (Turner, 1993).

The goal of the "social services" strategy of the 1962 amendment was to reduce welfare dependency. This goal was to be achieved by strengthening the family unit through the provision of opportunities to escape poverty through self support and self-sufficiency. Social workers were designated as key actors in achieving this task of control and ultimately decreasing the AFDC population. It was anticipated that the provision of counseling services to reduce family dysfunction would cut the rising public welfare expenditures (Turner, 1993). But AFDC rolls doubled between 1960 and 1970 and by 1967 policy-makers were disenchanted with the results of the 1962 social services strategy and again amended the Social Security Act to mandate a freeze on the federal matching

funds to states (Turner,1993).

As a result of this freeze, federal funds were redistributed and made more available to the private sector thereby enhancing the development of the creative programs for families that would soon follow. This period of expansion in the role of the federal government was followed by policies of contraction which led to varied interest groups putting a greater emphasis on family preservation for their own reasons which resulted in the passage of the AACWA of 1980.

Subsequent to Maas and Engler's study on the needs of children in foster care and the Kennedy Administrations' amendment to the Social Security Act, a rediscovery of child abuse was sweeping the country. In 1955 the American Medical Association (AMA) engaged in research to ascertain the extent of child abuse and the government's response to this problem. The AMA findings prompted the U. S. Children's Bureau to propose a model statute to encourage the reporting by 1963 of physical abuse of children. There were other proposals for reporting laws by such organizations as the American Academy of Pediatrics. Since there was no opposition, state legislatures were able to pass child abuse reporting laws with great speed. The response to increased media coverage and the agitation in the medical community about the newly identified battered child syndrome provided the impetus to the passage of the Child Abuse Prevention and Treatment Act of 1974 (P.L. 93-247).

The demand for uniform and workable service models prompted Walter Mondale, a U.S. Senator from Minnesota, to sponsor federal legislation in 1973 that was enacted as the Child Abuse Prevention and Treatment Act of 1974.

This act required the Department of Health and Human Services to

establish a National Center on Child Abuse and Neglect, which would serve as a clearinghouse for the research and demonstration programs in child protection. In addition, the Center was authorized to make small grants to states for innovative programs to protect children.

In order to receive funds, states had to meet certain eligibility requirements. These requirements included: giving immunity from prosecution to those reporting instances of child abuse and neglect, mandatory reporting laws for professional working with children, and provisions for dissemination of information to the general public on prevention and treatment of child maltreatment.

In 1975, President Ford signed into law Title XX of the Social Security Act. One of the provisions of the Act was that child protective services were mandatory for states wanting to claim these federal dollars. Title XX became the largest source of federal funds available to states to provide programs for child protection (Costin, Bell & Downs, 1991).

Child protective services are characterized by certain features: 1.) the way in which the service is initiated; 2.) the increased agency responsibility that accompanies work with parents of children at risk; 3.) the kind of agency sanction, or community authorization; and 4.) the balance required in the use of authority in relation to the rights of parent, child, and society.

Child protective services tend to be authoritarian as the state's responsibility for the child at risk and the community is high. Child protective services require a crucial balance in the use of the agency's authority because the agency approaches a family about its problems without a request from the family. Agencies can make decisions, based in law, to remove children and separate families (Costin, Bell & Downs, 1991).

Because of this authority and the power of coercion, delivery of preservation services becomes a delicate dance when being delivered in the context of protection.

One of the major drawbacks to the Child Abuse Prevention and Treatment Act was the lack of emphasis on services as the major thrust of the law was reporting and investigation. When the Child Abuse Prevention and Treatment Act of 1974 was passed, many states were experimenting with programs that would keep families intact and would address the multiple issues that they faced. One of these programs was started under the auspices of Catholic Community Charities in Tacoma, Washington called Homebuilders.

Because there was a need to address increasing admissions to foster placement that were unnecessarily restrictive, overcrowded and overextended, the Homebuilders intensive in-home family crisis intervention and education program was developed. It was designed to prevent unnecessary out-of-home placement of children in state-funded foster care units. The problems may include child abuse, neglect, family violence, status offense, delinquency, developmental disabilities and mental illness of either children or parents. The intensity of service delivery of the program is what has set it apart from the St. Paul Project of the 1950's. Homebuilders required therapists to be on call 24 hours a day, 7 days a week for a 4 month period.

There were other programs that provided comparable intensity of care during this time, most notably Families, Inc. in Iowa and Hennepin County Social Services in Minnesota (Whittaker, et al., 1990).

Summary

Two objectives were addressed in this chapter about the antecedent

period of the Adoption Assistance and Child Welfare Act of 1980: to examine the trends taking shape in the area of child and family welfare, and to identify the role of the federal government in the provision of services to families.

It appears that with the concept of "Friendly Visitors" initiated by the Charity Organization Society and the "free foster homes" of the Children's Home Society in the mid-nineteenth century, there were two emerging philosophies: the "child rescue" and the "family preservation" philosophies both of which continue throughout our recent history. We can see them in the advent of mother's pensions, the establishment of the Children's Bureau, passage of Title IV of the Social Security Act, the collaboration of government and private agencies in the St. Paul Project, the 1962 Amendments to Title IV, the Child Abuse Prevention and Treatment Act of 1974 and the Homebuilders Model of family preservation services.

The federal government's involvement starts in earnest with the White House Conference on Children of 1909, and continues with the subsequent establishment of the Children's Bureau in 1912. It appears that continued involvement by the federal government is incremental based on the amendments to existing child welfare laws, most notably the Social Security Act. Only in a time of a crisis such as the Great Depression of the 1930's was there an enactment of a law that promoted service to all families (worthy and unworthy poor) with a "radical" new approach, and even then it was based on the mother's pension laws already in existence in most states.

It is clear that the federal government has taken an increasingly active role in asserting the value of enhancing the family through preservation services as evidenced by the willingness by state and local governments to begin to fund some of their own efforts and those of private agencies by the

mid-1970s (Whittaker, et al., 1990).

In the next chapter, a brief policy examination will demonstrate how the issue of family preservation found its place on the public agenda and who were the supporters of this legislation will be explored.

Chapter V.

THE ADOPTION ASSISTANCE AND CHILD WELFARE ACT OF 1980 (AACWA) (P.L. 96-272): Points of Examination

This chapter will examine AACWA (P.L. 96-272) through three points of inquiry. They are: 1) the historical antecedent to the policy, 2.) the focus of the policy, and 3.) the response to the problem.

Historical Antecedent to the Policy

The impetus for the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) was the problem of foster-care-drift as defined by Maas and Engler: children placed in foster care unnecessarily and drifting in the system indefinitely. The goal of the Act was to ensure permanence for children, preferably with their biological families. Among the provisions in the Act to achieve this goal was a redefinition of child welfare services. Federal policy had originally defined child welfare services as "public social services to protect and care for the homeless, dependent and neglected children as well as children in danger of becoming delinquent" (Social Security Act 1935, Part 3, Section 521).

In P.L. 96-272, child welfare services were redefined as follows: public social services directed toward the accomplishment of the purposes: (A) protecting and promoting the welfare of all children, including handicapped, homeless, dependent or neglected children; (B) preventing or remedying or assisting in the solution of problems which may result in the neglect, abuse, exploitation or delinquency of children; (C) preventing the unnecessary separation of children from their families by identifying family problem, assisting families in resolving their problems, and preventing the breakup of the family where the removal of children is desirable and possible; (D) restoring to their

families children who have been removed, by the provision of services to the child and the families: (E) placing children in suitable adoptive homes, in cases where restoration to the biological family is not possible or appropriate; and (F) assuring adequate care of children away from their homes, in cases where the child cannot be returned home or placed for adoption (Section 425. a).

As pointed out in Chapter Four, historically the government intervened in family life only after a family failed in its function of caring and rearing of children according to the prevailing norms of society. When families failed, the government, through its child welfare system, separated the children from their families and placed them in out-of-home care. To the government, such action was part of its responsibility to protect children; however, to the families, it was punishment for inadequacy and failure. In mandating social services to families to prevent unnecessary separation, P.L. 96-272 established government responsibility to assist families so they do not fail in their child-rearing function. Instead of punishing families for failure, the government was to help families so they do not fail (Samantrai, 1992). These are the theoretical assumptions upon which P.L. 96-272 was based and how it intended to address them.

Focus of the Policy

Since 1962, the AFDC program has permitted Federal matching for aid provided to children who are not in their own home but are in foster care. Such assistance is matched by the federal government only in the case of children who would be eligible for AFDC had they remained in their own home, but who have been removed from the home as a result of judicial determination and placed in foster care.

Aid is available under this special AFDC foster care provision for such children in foster family homes and also in nonprofit private foster care

institutions. The annual cost of this part of the AFDC program was \$351 million in fiscal year 1977, of which \$183 million represented the Federal share and the balance which was to be paid by the states.

Concern was expressed over the need for increased efforts to move children out of foster care and into more permanent arrangements by reuniting them with their own families when it is feasible, or by placing them in adoptive homes.

There was criticism of the quality of foster care which was being provided in many parts of the country under the AFDC foster care program. An Health, Education and Welfare (HEW) audit report based on field inspections between 1974 and 1976 found that in most of the 13 States covered by the report there were significant weaknesses in program management which had adverse effects on the types of care and services provided to foster children. According to the report, the auditors found problems with: the licensing of foster care facilities, mixing of foster children with delinquent children, the preparation of plans for care of children, and eligibility of children for the AFDC foster care program as a whole.

In 1977 a study conducted for HEW, (the National Study of Social Services to Children and Their Families), found that of all children in foster care, almost 400,000 were living in foster family homes, 12,000 were in public group homes, and 23,000 in private group homes. Almost 30,000 were in residential treatment centers and 43,000 were in public and private child care institutions. The National Study also found that two and one-half years was the median length of time all children had spent in foster care. It found that 38% of all children in foster care had been in placement for more than 2 years.

The child welfare services program under Title IV-B of the Social Security

Act provided a small Federal contribution to the costs of State programs to protect and promote the welfare of children, including the provision of services to enable children to remain in their own homes.

In fiscal year 1979, HEW reported that combined State and Federal expenditures reported under the Title IV-B program was about \$800 million, with State and local funds representing about 93% of that total amount (Legislative History, 1980.)

In 1980 before the passage of P.L. 96-272, open-ended Federal matching funds were provided for foster care payment if a child met State AFDC eligibility requirements, and was removed from their home "as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child".

In light of this information, we can determine that children in the context of a permanent home, either natural or adoptive, was the focus of this policy. There was also focus on the issue that the foster care system was not providing the temporary "safety net" for children that was intended and that the cost in dollars to both the state and federal governments continued to increase each fiscal year.

Response to the Problem

As the issue of foster-care-drift found a place on the professional agenda through the work of Maas and Engler and others, it also found a place on the public agenda when the federal dollars did not provide the desired outcomes as noted in various HEW studies on the foster system (Congressional Record, October 25, 1979).

As was similar to the passage of the Child Abuse Prevention and Treatment Act of 1974, many states had already instituted adoption assistance

and family preservation laws (Nelson, 1984). Forty-four states had such laws in effect when the first attempt at passing what would become P.L. 96-272 found its way to the public or governmental agenda (Legislative History, 1980). Many states had programs in place, (such as Homebuilders in Washington State and Families, Inc. in Iowa) to provide the family preservation services that were suggested by the Federal legislation.

Keeping in mind DiNitto's use of incrementalism, one can see that the stage was set for the family preservation issue to find its place on the federal governmental agenda. This point is made clear in the comments of Senator Cranston of California when he said:

The Federal policy here is not innovating but simply is coming into step with the overwhelming judgment of the State governments whose wards these children are and for whom they have assumed responsibility. But it should be noted that the bill marks an historic shift in the thrust of Federal policy away from foster care, which is increasingly recognized to be less than satisfactory in many cases, even if sometimes unavoidable toward permanent arrangements for children, involving the retaining of the children in their own homes (Congressional Record, October 25, 1979).

Senator Javits from New York pointed out how his state already had a similar law when he said:

These adoption subsidy and support service provisions are similar to systems already in place in New York. Since 1968 we have provided adoption subsidies for children with special needs, and since 1973 have had preventive services available. We also have an information system to monitor children in foster care as well as regular administrative and court reviews at intake, 6 months, and 18 months (Congressional Record,

October 25, 1979).

What can be concluded from this information is the issue of permanency for children found its place on the federal governmental agenda through an incremental process. Forty-four states had already enacted state laws addressing the issue and with growing costs the time was right for foster care reform and permanency planning to be placed on the national agenda.

One of the facilitating factors that contributed to the passage of P.L. 96-272 has already been alluded to in that 44 states already had state legislation that addressed the need for permanency. But not unlike the Mother's Pensions laws of the 1920' and 30's, each state's law was different. The Federal policy at that time encouraged State agencies to pursue foster homes through Federal funding, but did not provide adoption subsidies that would assure permanency. To illustrate this point, some states provided subsidies to parents to adopt children with special needs and some states did not; therefore in some states children with special needs did not find permanent homes.

Fiscal concerns that were created by the foster care system prior to the passage of P.L. 96-272 greatly facilitated the passage of the law. The fact that the foster care system cost taxpayers \$2 billion in 1979 with about \$1 billion of that amount going to pay for salaries and other administrative costs provided the impetus for bipartisan support in the congress to change the current system of care. As Senator Bumpers of Arkansas stated:

By providing for an adoption subsidy program for foster care special children, we will cut down on administrative costs involved in foster care. We will also save money in cases where the adoption subsidy is lower than the foster care grant. Passage of this bill will not only improve the services to these foster care children but will also save the Federal

government money in the long run. It is not often that the Federal Government can take a program and cut expenses at the same time it provides the best program for the recipient (Congressional Record, October 25, 1979).

Senator Dole of Kansas added that "the forward funding mechanism allows Congress to maintain control over spending control which is lost through entitlement programs while meeting the State's needs." (Congressional Record, October 25, 1979). This way of funding for permanency services was based on each States level of compliance to P.L. 96-272. The law also put a cap on Federal matching funds for foster care maintenance payments. These illustrations show how the issue of growing fiscal responsibility of the Federal Government was addressed.

Another facilitating factor was the overwhelming feeling that all children deserved a permanent home and that those who did not would become a detriment to society later in life. This is illustrated by Senator Biden of Delaware when he said;

Many of these children will experience difficulties in school and have a higher incidence of social problems such as alcohol and drug abuse, delinquency, and economic dependence. Institutional foster care should not become a permanent living arrangement for children ...and H.R. 3434 (later P.L. 96-272) creates incentives to encourage States to do a better job of monitoring foster care children (Congressional Record, October 25, 1979).

Representative Burgener of California summed up the facilitating factors that were the driving forces behind the enactment of P.L. 96-272 when he said:

This is a real opportunity to do things for families to keep them together

and to provide children with the kind of protective services that will in the long run, first, save the family and second, save the taxpayers a great deal in the long run (Congressional Record, August 2, 1979).

Representative Brodhead of Michigan outlined what the intent of P.L. 96-272 was when he said:

The basic thrust of the legislation is to try to improve social services to children without substantial increased costs to the Federal Government. What this bill attempts to do is to provide mechanisms by which we can move children out of foster care and back with their original families, or into adoptive homes. When this is done, children are provided with a better environment in the first place and, in the second place, there are very substantial savings to the Federal Government and to the State governments. It is substantially cheaper to provide necessary services to children in their own homes or adoptive homes than to provide the full cost of support of those children in foster homes. So I think this is a very comprehensive and worthwhile piece of legislation. What the bill attempts to do is to get the States to enact a series of reforms of their foster care laws, because in the past there has been too much of a tendency to use the foster care program. There has been that tendency because foster care is an open-ended entitlement, and it becomes a little more expensive the State to use the protective services than foster care. Through this bill, we want to free up a little bit of money in the IV-B area so you will have an incentive to keep a family together (Congressional Record, August 2, 1979).

Another facilitating factor that was mentioned during the debate of P.L. 96-272 was that 1979 was the "International Year of the Child." Representative

Rostenkowski referenced it in support of the passage of the legislation when he said, " ... during 1979, the International Year of the Child, much has been said and continues to be said about the needs of today's children. It is appropriate that during this time the House has the opportunity to consider H.R. 3434." (Congressional Record, August 2, 1979).

By using this formal recognition of a very public acknowledgment of children, Rostenkowski and others could be perceived supporting an issue that was central to American family values. To support something for "the good of children" was a powerful and persuasive tool. Doing good for children is what Barbara Nelson (1984) describes as a valence issue. Other valence issues could be world peace, national strength, or better public education. They are non-controversial generalities that everyone would want to be seen in support of. These facilitating factors were instrumental in seeing that H.R. 3434 became P.L. 96-272.

There were constraining factors that kept the provisions of foster care reform and adoption assistance as well as other permanency reforms from being included in legislation on the Federal level.

The issue of foster care reform and adoption assistance first gained recognition on the Federal level when Representative George Miller of California first looked into the foster care system through HEW funded studies in 1975. Legislation addressing foster care reform was part of a bill in every session of Congress after that time but had never passed and become law. The problem was that the relatively non-controversial foster care-adoption proposals kept getting combined with other proposals that were highly controversial.

For example, in 1978 the foster care-adoption proposals languished as part of a bill that also would have required ambulatory welfare recipients to go

to work at government jobs. The Child Welfare League of America, an old and highly respected organization that advocates for children, lobbied against that bill containing that foster care-adoption proposals, because it contained limitations on general welfare eligibility that the League found objectionable (Congressional Record, October 25, 1979).

The foster care and adoption proposals were bound up in the controversy over whether social service money should leave Washington in the form of "entitlements" which guarantee to states a fixed amount of money to spend for a particular purpose for several years to come, or in the form of annual appropriations, so that Congress can decide each year how much money to spend and where to spend it. The social service industry which believes in advance planning, and fiscal conservatives who believe in budgetary control did not see eye to eye on this issue (Congressional Record, October 25, 1979).

With the facilitating and constraining factors regarding P.L. 96-272, it is important to examine what is included in the law and how it was different from the existing law in 1980. This examination will be done by looking specifically at the three areas that represent permanency services for families and children; they are foster care, adoption assistance, and child welfare services (Title IV-B of the Social Security Act).

In 1980 the federal law provided for open-ended Federal matching for foster care payments under aid to families with dependent children if a child meets State AFDC eligibility requirements, and was removed from their home as a result of a judicial determination.

P.L. 96-272 emphasized more permanent placement by converting the foster care program into a closed end authority. As incentives to emphasize

permanent placements, federal funds would be indexed until 1985 at which time Congress would review what the appropriate level of funding should be. This would leave time for growth in foster care programs and opportunities for states to move children out of foster care and into more permanent situation, with additional funding made available under title IV-B child welfare services program.

P.L. 96-272 provided a specific definition to apply to foster care payments. The term was defined as payments to cover the cost of food, clothing, shelter, daily supervision, school supplies, personal incidentals, liability insurance for the child, and reasonable travel to the child's home for visits. In the case of institutional care, the term includes the reasonable costs of administration and operation of the institution as are necessary to the provision of the items mentioned above.

There is also a requirement that judicial findings also involve the question of whether efforts have been made to make it possible for the child to remain in (or be returned to) his or her own home.

The law also broadens the provision to allow for Federal funding of foster care maintenance payments for children in public as well as private facilities, but only if the public institution serves no more than 25 resident children. This addition was intended to encourage States to develop less intensive forms of institutional foster care.

The intent of the law was that the combination of an open-ended adoption assistance program and closed-end foster care program would represent an important restructuring of Federal incentives toward permanent placement of children.

Prior to P.L. 96-272, there was no Federal matching funds for adoption

subsidies; however, Federal funds for child welfare services may now be used for adoption subsidies.

The bill established a new adoption assistance program under part E of Title IV of the Social Security Act with Federal matching on the same basis as under the Medicaid program. Under the adoption assistance program, a State is responsible for determining which children in the State would be eligible for adoption assistance. The criteria for this determination considers that the child would have been receiving AFDC except for the child's removal from the home of relatives; that the child cannot be returned to that home, and that, after making a reasonable effort consistent with the child's needs, the child has not been adopted without the offering of financial assistance.

If the State determines that adoption assistance is needed, it is able to offer such assistance to parents who adopt the child so long as their income, adjusted to reflect family size, does not exceed 125% of the median income of a family of four in the State.

The agency administering the program can make exceptions to the income limit where special circumstances in the family warrant adoption assistance. The amount of the adoption assistance would be agreed upon between the parents and the agency, but cannot exceed the foster care maintenance payment that would be paid if the child were in a foster family home, and could be readjusted by agreement of the parents and the local agency to reflect any changed circumstances.

Child Welfare Services under Title IV-B of the Social Security Act prior to P.L. 96-272 provided a relatively small Federal contribution to the cost of State programs to protect and promote the welfare of children including the provision of services to enable children to remain in their own homes, action to remove

children from unsuitable homes and place them in foster care homes or institutions, and measures to place children in adoptive homes.

P.L. 96-272 included increased accountability in the care of children who suffer from various forms of neglect. The law retains the basic nature of the child welfare services program as one which is subject to annual review through the appropriations process. To enable States to plan for this program, the law shifts the program to a forward funding basis. In this approach, appropriations made after the date of enactment of this legislation would become first available for expenditure in the fiscal year following the fiscal year to which the appropriation act applies.

The law adds a new section to the child welfare services part of the law specifically permitting expenditures for State tracking and information systems, individual case review systems, services to reunite families or place children in adoption, and procedures to protect the right of natural parents, children and foster parents.

These changes brought about by P.L. 96-272, represent a major shift in policy. They point to a distinct move by the Federal government to address the need to support parents in keeping families together. This move to support children in the context of the family became known as family preservation. Family preservation services are those developed only since P.L. 96-272 provided the impetus for this shift in focus. The additions to existing programs also speaks to DiNitto's assertion that the creation of policies occurs in a political context and is an incremental process. It is clear that both fiscal conservatives and social liberals were responding to this need for congressional action. They were joined by advocate groups from the private sector as well, which permitted this issue to find its place on the Federal

govenment's agenda.

The next chapter will draw the information together and examine it in the context of the research questions posed by this study. Conclusions of the study as well as its limitations and implications for social workers will also be discussed in Chapter Six.

Chapter VI

RESULTS AND CONCLUSION

The family preservation approach to child welfare has been examined by looking at its evolution throughout history to answer the initial research questions:

1.) was the enactment of the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) the result of an historical incremental process of responding to child welfare needs?

2.) what were the changes in programmatic design that led to P.L. 96-272?

These questions were pursued under the assumption that the nature of social policy is not a rational planning process but is an incremental, adaptive planning process.

This chapter will address these questions and assumption by reviewing the historical data that was collected and presented in earlier chapters to determine if there was a trend towards an increased role by the Federal government in child welfare and in what way.

Findings from Historical Data

As we have seen, in the mid 1800's there was a philosophy that a child needed to be rescued from its family setting. This philosophy was evident as private charity organizations responded by placing children in "good Christian homes" to save the child from poverty and incapable parents. There were efforts by some state governments in terms of establishing institutions but most of the child welfare needs were met by non-governmental entities. It is clear that the trend was that of private charities with an emergence of local and state government involvement.

By the end of the 19th century, the trend in child welfare was one of providing support and care in people's homes or in their communities through foster homes and "friendly visitors". Because of growing immigration and urbanization, child welfare issues began to emerge as an issue with national consequences. We then see in the early 1900's the establishment of the White House Conference on Children and the Federal government's response by legislating the Children's Bureau in 1912. These efforts signaled the trend toward the federal government's involvement. It was mainly a response to what states and private charities had already established, thus supporting the incremental approach that existing policies and programs are used as a base from which to create new policies.

We can see the evidence that this incremental approach was used again in the creation of Title IV of the Social Security Act of 1935. This part of this major federal policy was similar to the existing state laws for mother's pensions. This legislation did support the trend of an increasing role by the federal government in child welfare. Although the enactment of the Social Security Act was a response to an economic "crisis," the child welfare portion of the act response was one of existing programs that became part of the federal law.

In the 1950's, we see through the St. Paul Project, that government and private non-profit agencies were beginning to re-examine their approaches to serving families with multiple needs. The trend had been to rescue children from inadequate parents and remove them from their homes. This project continued and expanded a trend to serve families in their environment begun in the 19th century with "Friendly Visitors". The St. Paul Project was implemented through a coordinated effort by numerous private agencies. By 1959 a landmark study by Maas and Engler addressed the inadequacies of the foster

care system for children, and the Federal government's response to the study soon followed in the 1962 amendments to Title IV of the Social Security Act.

These amendments signaled the inclusion of families by changing the Aid to Dependent Children (ADC) program to Aid to Families with Dependent Children (AFDC) and creating Title IV-B (child welfare services). These amendments provided for financial assistance to relatives of dependent children as well as services to maintain children in their own homes which is an incremental shift towards family preservation.

Subsequent to these amendments in the mid-1960's, the Civil Rights movement found a place on the public agenda and with that came the concern for children's rights. This value ultimately led to the Child Abuse Prevention and Treatment Act (CAPTA) of 1974 and although not a distinct move towards family preservation, this law signaled the federal government's concern over specific child welfare issues. This law follows the trend and assumption of this study that the federal government has taken an increasing role in child welfare and that there has been a two-pronged approach to child welfare. The mission to provide safety for children is evidenced by the work of the Children's Aid Society in the 19th century and the passage of the CAPTA of 1974. There has also been the mission to provide services to children in the context of their families as evidenced by the "Friendly Visitors" of the 19th century and the St. Paul Project of the 1950's.

Findings from P.L. 96-272

Was the enactment of the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) the result of an historical incremental process of responding to child welfare needs? Findings from the data gathered regarding the passage of the law would lead us to answer yes as discussed in the next paragraphs.

As was pointed out in Chapter 5, the issue of foster care drift and the rising expenditures in the foster care programs had been evident since Maas and Engler's 1959 study. The Department of Health, Education and Welfare conducted studies of their own as early as 1974. The definition of the process of agenda setting by Nelson (1984) is used. In the first stage, called issue recognition, an official notices a particular problem or concern, and decides that it offers the potential for governmental action. The problem does not have to be newly invented, merely newly discovered by the official (Nelson, 1984).

In stage two of this model, the issue is adopted when an official decides whether or not to respond to the problem. The issue of foster care reform was adopted by Congressman Miller and introduced as legislation in 1976.

In stage three priorities among the issues are set. The priorities in this law were the increasing costs to the federal and state government and the need for permanency for children.

In the final stage, there is maintenance of the issue; the legislative process is moved to the point of substantive decision-making. The initial maintenance for this issue came in 1976 when it was first introduced as part of a larger welfare reform package. The recurring maintenance, which is the process where established issues are re-examined, occurred for this legislation as it was included in each legislative session thereafter until its passage in 1980.

This process and the final form of the law supports the assumption of this study that the nature of social policy making is not a rational planning process but is an incremental, adaptive process that relies on existing policies, programs, and expenditures as a base. The focus of attention was on the proposed changes in the foster care and child welfare policies and not the

creation of a new system. There were numerous prototypes that were in place in the form of 44 different state laws.

There are different fiscal incentives to promote permanency for children. Some of these incentives provided for adoption subsidies and services to keep children in their own homes, and caps on the amount of federal money available for foster care placements.

From 1959, when the issue of permanency for children first reached recognition by the public, to 1980 when P.L. 96-272 was enacted, was 31 years. In that time period, there continued to be a focus on providing safety for children as was expressed in the CAPTA of 1974, but also a recognition that providing services to children in the context of their family should be emphasized as foster care was not a healthy or fiscally sound alternative.

The original policy intent of P.L. 96-272 in terms of family preservation is fairly straight forward as we have seen in the floor debate in both houses of Congress. In summary, the policy stated that there is a need for increased effort to move children out of foster care and into more permanent arrangements by reuniting them with their own families or by placing them in adoptive homes.

To induce and to help states to change, P.L. 96-272 incorporated a system of federal fiscal incentives and sanctions. The DHEW, with input from public and child advocates, developed regulations to guide implementation in states. These regulations provided for a tracking and information system, individual case review systems, and procedures to protect the rights of natural parents, children and foster parents, and most importantly, services to reunite families or place children in adoptive homes. These regulations were sensitive to each state's practices.

Each state's efforts to provide services to children in their homes was

greatly influenced by the Homebuilders model as well as the federal government's fiscal incentives. The change in programmatic design went from child rescue and services provision outside of the home to one of providing services to children in the context of their families.

The majority of this shift in program design happened in the Carter administration (1977-1980). The Reagan administration (1981-1988) came into office with a different agenda that minimized the federal role in all human services programs. All newly issued regulations, including those for P.L. 96-272, were suspended immediately. In 1981 and 1982, the Reagan administration proposed a repeal of P.L. 96-272. Congress rejected this proposal each time and pressured the administration to issue new regulations for implementation of the Act. The Department of Health and Human Services rejected public input on the new regulations as it was felt by the administration that this would only further delay the process of implementation of new regulations. The new regulations did not specify even a minimum standard of service or mechanisms of enforcement. States' compliance with the Act was determined by a self-certification process. Block grants eliminated any federal fiscal incentives, and interpretation and implementation of the act was left to each individual state (Samantrai, 1992).

When P.L. 96-272 was passed it was intended that resources, policy standards, communication, and enforcement was to be consistent for all states. Although the intent of family preservation services was straight-forward, the implementation was never realized as intended, yet the changes in program design continued.

Implications for Social Workers

The findings of this study indicate that social policy is formulated in an

incremental way, relying on past programs and legislation to guide future policies. It also reveals that there have been two philosophies in child welfare: the child rescue philosophy and the philosophy of services to children in the context of their families, also known as family preservation.

Historical data has also shown that there were many different stakeholders responding to child welfare problems. Charity and religious organizations and local, state and federal governments would respond separately and, more recently together, to provide solutions to problems. Social workers can benefit from having this historical information as it enhances their ability to impact the governmental agenda.

Knowing who in the past has supported child welfare policies will help social workers in building coalitions and in mobilizing public agreement. Social workers can then create a window of opportunity for an issue to gain a place on the governmental agenda. A direct result of this opportunity will be to synthesize existing practice methods to create new ones that will best serve society.

Further studies are needed to determine what role other historical events have played in the formulation of child welfare policy. A follow up study would be helpful to determine what impact the Reagan administration had on P.L. 96-272 subsequent to its passage in relation to family preservation services. It would also be useful to study the implementation of other social policies to identify variables that social workers could manipulate and therefore shape future child welfare policies.

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