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THE SAFETY NET REVISITED? THE CONTINUING IMPACT OF WELFARE REFORM IN NEW YORK CITY AND NATIONWIDE

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I say to those on welfare: For too long, our welfare system has undermined the values of family and work, instead of supporting them. Congress and I are near agreement on sweeping welfare reform. We agree on time limits, tough work requirements, and the toughest possible child support enforcement. But we must also provide child care so that mothers can go to work without worrying about their children. So I challenge Congress: Send me a bipartisan welfare reform bill that will really move people from welfare to work and do right by our children, and I will sign it.¹

Ten years ago President Clinton signed the Personal Responsibility and Work Opportunity Reconciliation Act (“PRWORA”) and Temporary Assistance to Needy Families (“TANF”) into law.² This change was monumental as it has forever altered the fundamental nature of American public assistance policy. Overnight, “welfare as we knew it” was transformed from an entitlement program³—similar to Social Security and unemployment insurance where those who qualify are recipients and are automatically guaranteed benefits—to a means-tested operation such that recipients must meet specific criteria in order to be deemed eligible to

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¹ President Bill Clinton, State of the Union (January 23, 1996), *available at* <http://odur.let.rug.nl/~usa/P/bc42/speeches/sup96wjc.htm>.

² See Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193. Codified as amended in scattered subsections of 42 U.S.C.A§ 1305 (1996)). TANF, Temporary Assistance to Needy Families, is the means-tested cash assistance program under PRWORA.

³ See *generally* *Goldberg v. Kelly*, 397 U.S. 254 (1970). Justice Brennan writing for the Court held that welfare benefits are property and therefore one cannot be deprived of them without Due Process.

[T]ermination of aid pending resolution of a controversy over eligibility may deprive an eligible recipient of the very means by which to live while he waits. . . welfare guards against the societal malaise that may flow from a widespread sense of unjustified frustration and insecurity. Public assistance, then, is not mere charity, but a means to ‘promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity.’

Id. at 264-65 (alteration in original).

receive aid.⁴ This epic policy shift has greatly impacted the ways in which welfare recipients, welfare administrators, and American citizens perceive the welfare system. Since the passage of PRWORA and TANF, national caseloads have dropped tremendously. In recent years however, caseloads have remained stagnant. Thus, in February 2006, President Bush asked Congress to reauthorize welfare reform in order to stimulate further caseload declines.⁵ President Bush's welfare initiative sets stringent guidelines in order to further encourage work and personal responsibility amongst welfare recipients. Like President Clinton, President Bush seeks to ultimately reduce welfare dependency by promoting activities and practices which will motivate welfare recipients to achieve self-sufficiency.

Despite some similar objectives, President Clinton's 1996 welfare reform and President Bush's 2006 welfare reauthorization have distinct fundamental goals and aim to achieve these goals in radically different ways. Indeed, both programs are hinged upon divergent public policy and political ideologies. For instance, President Clinton's policy was revolutionary in that it eliminated welfare as an entitlement, promoted a "work-first" ideology aimed at reducing dependency, and allotted states a vast amount of control in implementation. Central to President Clinton's reform was permitting state discretion in policy choices and implementation strategies. President Clinton's plan also sought to reduce welfare caseloads and thereby reduce welfare dependency by focusing on the inherent values of work. Through work and subsequent benefits, President Clinton hoped to both force and encourage recipients to help themselves. Work was thus an ancillary, but crucial policy tool used to move recipients off welfare, reduce caseloads, and ultimately end generations of welfare dependency.

Although President Bush's plan also stresses the centrality of work as a means of reducing welfare dependence, states have much less control over how to administer their programs. Further, President Bush's plan imposes challenging new federal requirements. For instance, now there is a standard definition of what constitutes "work" and "work" activities. Only these specific activities satisfy the welfare-to-work requirement. Additionally, states must verify that a certain percentage of welfare recipients are working and are employed in these "work" activities. If a state fails to fulfill these requirements, it risks loss of federal funding.⁶ Due to these new changes, states are worried about how they will be able to meet these mandates while maintaining the desired degree of policy flexibility.

⁴ Throughout this piece I will use the terms 'welfare recipients', 'welfare participants', and 'welfare clients' interchangeably, although it can be argued that each reference has a distinct meaning.

⁵ See NATIONAL CONFERENCE OF STATE LEGISLATURES, House Passes Welfare Reform Bill, <http://www.ncsl.org/statefed/humserv/housefloor03.htm> (last visited Feb. 2007). President Bush asked Congress to reauthorize, or re-approve, the 1996 Welfare Reform law. Original Congressional approval for the law expired on October 1, 2003, and until 2006, Welfare Reform remained in effect by continuing resolution of Congress. President Bush proposed improvements to the bill which he in turn asked Congress to consider upon reauthorization.

⁶ Robert Pear, *New Rules Will Require States to Move Welfare Recipients to Work*, N.Y. TIMES, June 28, 2006 at A14.

Likewise, it is uncertain how states will be able to meet federal requirements specifying that states must reduce caseloads by a specific percentage.⁷ Many states claim that these compulsory percentage declines are unrealistic.

As the changes set forth by President Bush's 2006 reauthorization pose major challenges for welfare reform, it is important to examine how these policy implications fit into the larger scheme and future of welfare reform. Also, in order to fully analyze welfare reform's national effect, it is necessary to study it on the state and local level as this is where changes are actually implemented. Thus, much can be learned from looking at welfare reform in America's most populated city, New York. New York City is an ideal environment in which to study the positive and negative effects of welfare reform. New York City has a diverse welfare population and possesses a vast welfare bureaucracy which serves thousands of recipients. Similar to the federal plan, New York has instituted innovative policies to reduce the city caseload, encourage work, and end dependency. Although it can be argued that New York City's large bureaucracy makes it difficult to accurately study policy shifts, this is not so. Dramatic policy shifts will be more apparent within this multifaceted welfare system. Also, both Mayors Giuliani and Bloomberg have implemented innovative welfare programs which coincide with national welfare reform.

Further, this Note aims to analyze welfare reform progress ten years after its inception. In order to conduct a meaningful analysis, this Note will compare and contrast the 1996 reform and the 2006 reauthorization. Part I gives a brief overview of the history of welfare, focusing primarily on the role of national programs and innovations as tied to the evolving caseload. Part II details President Clinton's welfare reforms, elaborating on the rationale for such a massive policy change and also focus on the specifics of the law. Part II then discusses President Bush's 2006 welfare reauthorization, comparing it to President Clinton's plan.

Part III examines welfare reform in New York City under Mayors Rudolph Giuliani —1994 to 2001—and Michael Bloomberg, who assumed office in 2002. Through this local microcosm of welfare reform, President Clinton's reforms are compared with President George W. Bush's 2006 reauthorization in order to conclude which policy more successfully serves the intended purpose of welfare reform. Based upon this comparison, Part IV concludes that the underlying structure and policies of President Clinton's welfare reform more effectively serve the needs of welfare recipients in New York City and nationwide. Finally, Part V proposes plausible solutions and policy innovations for the 'next phase' of welfare reform.

Lastly, it is important to note the criteria used to judge the success of the Clinton and Bush welfare reform plans. In this analysis, two factors serve as a

⁷ Sheri Steisel & Jack Tweedie, *TANF Rules Tough on States*, STATE LEGISLATURES, Mar. 2006, at 23.

basis for evaluating welfare reform: caseload decline and “work.” Caseload decline is the most apparent indicator of welfare reform’s success as this data demonstrates how many people remain on the welfare rolls at any given time. From caseload fluctuations, it is possible to delve into the substantive policy changes that prompt people to enroll on, remain on, or leave welfare. Throughout the Note, caseloads are discussed both in terms of numerical and percentage reductions as both methods of measurement exemplify the degree of success of welfare reform programs. Many critics state that objectively looking at caseload decline is not adequate. Caseload numbers must be viewed by what they represent, i.e., are welfare leavers being forced off the rolls? Are welfare leavers able to subsist without government assistance? How are those on welfare faring? Nonetheless, these criticisms fail to consider the remarkable systematic change behind plummeting caseloads.

“Work” is the other criterion used to judge to success of welfare reform. “Work” for the purposes of this Note means any type of employment, or job-training program. This refers to “work” in a collective sense, including all benefits—economic, social, psychological—one gains from contributing to society through the workforce—as opposed to self-segregation caused by perpetual unemployment. To clarify, “work” in this context does not distinguish between types of employment, the kinds of jobs available to welfare recipients or welfare leavers, or the wage-earning potential of current and former welfare recipients. Critics nevertheless debate that “work” in this sense does not accurately indicate policy success. However, these views are flawed because they do not account for the inherent value of employment.

One particular criticism is that welfare reform forces people with few skills and little education into the workforce.⁸ While participating in mandatory work programs, recipients will have to accept low-paying and low-skilled jobs and will be unable to support themselves and their families, thus exacerbating poverty.⁹ Additionally, after being “kicked off the rolls” due to time-limits, workers will have difficulty obtaining adequately paying jobs.¹⁰ As a result, many fear welfare reform increases poverty and creates an underclass of low-skilled, uneducated workers unlikely to advance in society. Nonetheless, evidence suggests this view is exaggerated.

More than forty studies conducted by states since 1996 show that about sixty percent of the adults leaving welfare are employed at any given

⁸ See Maria E. Enchautegui, *Assessing the New Federalism: Will Welfare Reform Hurt Low Skilled Workers?* 10-11 THE URBAN INSTITUTE (2001), <http://www.urban.org/UploadedPDF/discussion01-01.pdf>.

⁹ See generally KATHRYN EDIN & LAURA LEIN, *MAKING ENDS MEET: HOW SINGLE MOTHERS SURVIVE WELFARE AND LOW-WAGE WORK* (Russell Sage Foundation 1997).

¹⁰ See Enchautegui, *supra* note 8, at 2.

moment and that, over a period of several months, about eighty percent hold at least one job these sweeping changes are unprecedented...with earnings leading the way, the total income of these low-income families increased by more than 25% over the period and minimum wage, expanded low-income child care, broadened health care for low-income children, strengthened child support enforcement, and improved access to food stamps for working families.¹¹

Other opponents argue welfare reform is harmful to single-parent families. During the early years of welfare reform, this concern was prevalent because if single mothers were forced to enter the workforce, they would not be able to spend as much time at home caring for their children.¹² However, “studies of welfare demonstrations have found no link between the work requirement or work participation and negative effects for elementary school or pre-school age children.”¹³ Further, as early as 2002, indicators showed that child well-being was not directly impacted by mothers participating in welfare-to-work programs. “One of the most important findings is that child outcomes do not appear to be related adult’s employment status. Although some have theorized that requiring welfare recipients to work would lead to negative child outcomes...our data does not support this conclusion.”¹⁴ Thus, despite analyses to the contrary, the successes of welfare reform can be accurately measured by assessing caseload decline and the impact of welfare-to-work.

I. FORMATION OF THE SAFETY NET

The 1935 Social Security Act established Aid to Families with Dependent Children (AFDC), which created an entitlement to welfare.¹⁵ However, long before AFDC, welfare practices existed in the states in the form of mothers’ or widows’ pensions.¹⁶ When AFDC was established, it created state grants for aid to

¹¹ RON HASKINS, POLICY & PRACTICE, WELFARE REFORM, SUCCESS OR FAILURE? 11 (2006), <http://www.aphsa.org/Publications/Doc/PP/0603ART1.pdf>.

¹² LISA GROSSMAN, NGA CENTER FOR BEST PRACTICES, CHILD AND YOUTH WELL-BEING UNDER WELFARE REFORM: RECENT RESEARCH 1-2 (2004), <http://www.nga.org/cda/files/0104WELFAREREFORM.pdf>.

¹³ *Id.* at 6.

¹⁴ CABINET FOR FAMILIES AND CHILDREN, COMMONWEALTH OF KENTUCKY, SUMMARY: FAMILY WELL-BEING AND RESOURCE SUPPORT 3 (2002), http://kwre.usi.louisville.edu/pdf/6_page_sum_2002.pdf.

¹⁵ See STEVEN M. TELES, WHOSE WELFARE? AFDC AND ELITE POLITICS 26 (Univ. Press of Kansas 1998).

Teles writes:

Before 1911, no state in the nation had a mothers’ pension program. By 1934, every state in the nation . . . had such a program, with the overwhelming number of states creating one before 1920. States set up these programs without financial assistance from the federal government, and yet the rapidity with which they were established is remarkable.

¹⁶ *Id.* at 1. Further, racial dilemmas plagued these early welfare policies: “One of the iron laws of American life is that cash payments to the healthy nonworking poor breed suspicion. Mothers—or at

dependent children, public health, unemployment compensation, and other grants which provided aid to mothers and children.¹⁷ AFDC gave states a great deal of leeway to implement the law. From 1939 until 1962, the AFDC system functioned with little public outcry. Although welfare was not a politically favored policy, it was not until the rolls started to dramatically increase that its very existence became problematic.

In the early 1960s, as caseloads began to inexplicably and rapidly increase, welfare came under political fire. States began to impose punitive measures to punish recipients who did not meet specific eligibility criteria.¹⁸ Therefore in 1962, in an effort to reduce punitive measures imposed by states, President Kennedy secured passage of amendments which enabled recipients to receive cash benefits and services free of punishment.¹⁹ Consequently matters did not improve and the national caseload continued to climb from “three million persons... in 1960 to 4.3 million in 1965 and to 10.2 million by 1971, while combined federal and state expenditures rose from barely \$1 billion to \$6.2 billion. Participation rates... rose from thirty-three percent in the early 1960s to more than ninety percent in 1971.”²⁰ Further, during the 1960s and 1970s, a number of proposed policy solutions to ending welfare dependency failed.²¹ Caseloads soared and policymakers continually failed to find practical solutions. The national caseload in 1981 peaked at 3.6 million.²² There seemed to be no end to the culture of

least suitable white ones—were briefly deemed an exception only because society didn’t expect them to work—their work was raising children.” See also JASON DEPARLE, *AMERICAN DREAM: THREE WOMEN, TEN KIDS, AND A NATION’S DRIVE TO END WELFARE* 87 (Viking 2004). Although I decline to address this sub-topic here, it is important to note that race is a highly relevant aspect of welfare policy and welfare reform.

¹⁷ TELES, *supra* note 15, at 31.

¹⁸ *Id.* at 38-39.

¹⁹ *Id.*

²⁰ See R. KENT WEAVER, *ENDING WELFARE AS WE KNOW IT* 55 (Brookings Inst. Press 2000).

²¹ See *id.* at 55-66. In order to rectify the booming caseloads and national welfare crisis, Congress passed the Work Incentives Program (WIN) in 1967, and states were instructed to register recipients who were deemed eligible for work and job training. Those who did not cooperate received sanctions. However, WIN was not properly implemented or enforced and thus remained an ineffective program. During the Nixon years, economist Milton Friedman proposed the Negative Income Tax (NIT) as a solution to ending poverty and encouraging work among welfare recipients:

The idea was conceptually simple: everyone covered by the plan . . . would be guaranteed a minimum level of income by the government. These benefits would be taxed back at some fixed rate . . . for every dollar earned above a certain level until the benefits disappeared. Thus, persons covered by the program should always be better off by working more . . . Advocates argued that a negative income tax would provide incentives to work and—because it was not limited to single parent families—discourage family breakup or absence of marriage altogether in situations where a father’s earnings potential was limited.

Nonetheless, neither the public nor Congress rallied behind the NIT as a viable solution to eliminating welfare dependency. Nixon also tried to pass the Family Assistance Plan (FAP) but this too failed to pass Congress.

²² DETERMINATES OF AFDC CASELOAD GROWTH: INTRODUCTION AND SUMMARY (2001), <http://aspe.hhs.gov/HSP/isp/afdcgrow/chap-1.htm>.

dependency.²³

No substantial changes took effect until President Reagan's administration in 1981. Through President Reagan, Congress passed sweeping budget changes that affected income eligibility levels amongst welfare recipients. These reforms pressured states to impose work mandates in part through the Job Opportunities and Basic Skills Training Program (JOBS).²⁴ More significant, however, was President's Reagan focus on moving control of welfare to the states. This shift was called "The New Federalism," whereby "the states would take over responsibility for up to sixty-one federal grant programs, including AFDC and food stamps. A temporary federal trust fund would help the states manage the transition."²⁵ This change in essence helped set the stage for President Clinton's TANF reforms which set up a federal block grant for states to manage their own welfare reform implementation. In 1988, the Family Support Act ("FSA") was passed seeking to further move welfare recipients to work through additional incentives such as Medicaid and the discounting of more earnings, while still providing welfare and child care provisions. JOBS and other workfare programs required that both men and women who were receiving welfare go to work.

Despite the efforts of his predecessors, at the time of President Clinton's inauguration in 1993, the national welfare rolls were higher than ever. The number of AFDC cases rose every month except one between August 1989 and October 1992, increasing almost thirty percent over the period. The number of AFDC recipients jumped from 10.9 million in 1989 to 14.2 million in 1994...Combined federal and state AFDC benefits topped \$20 billion dollars in 1992.²⁶

President Clinton first turned to the states. He instituted policy waivers, allowing states to waive AFDC requirements in order for them to form pilot programs to experiment with their own welfare reform plans.²⁷ These pilot programs were instrumental in dismantling the AFDC system because "[t]he pilot programs eroded the institutional structures of AFDC and made it possible for a new welfare program to take a radically different direction without being dragged

²³ See generally MARY JO BANE & DAVID T. ELLWOOD, *WELFARE REALITIES: FROM RHETORIC TO REFORM* (Harvard Univ. Press 1994). The 'culture of dependency' is referred to as continued generational reliance on welfare assistance for subsistence. Recipients become psychologically, economically, and socially dependent on welfare cash assistance and ultimately lack the motivation to get off welfare and out of poverty. Hence, this vicious cycle drags on indefinitely.

²⁴ WEAVER, *supra* note 20, at 67, 77.

²⁵ *Id.* at 69. However, many worried that increased state control without much federal guidelines or funding would prompt a 'race to the bottom' amongst poorer states that were reluctant to provide additional support for those on welfare.

²⁶ *Id.* at 103.

²⁷ See generally ROBIN H. ROGERS-DILLON, *THE WELFARE EXPERIMENTS* (Stanford Univ. Press 2004). This concept stems from the idea within American federalism that the states serve as "policy laboratories," try out different policies, and through this experimentation they demonstrate to the federal government what programs can be viable when applied at the national level.

down by existing institutional structures and memory.”²⁸ When drafting his national welfare reform plan, President Clinton looked to the state that to date had achieved the most caseload reductions and had implemented a thriving welfare-to-work program—the Wisconsin model. A new era in American welfare policy had begun. Wisconsin’s welfare reform program, known as Wisconsin Works (“W-2”), under the leadership of then Governor Tommy Thomson used a paternalistic approach to emphasize strict work requirements while instilling support mechanisms to enable recipients to move from welfare to work and remain off the rolls.²⁹ As a result, Wisconsin’s caseload fell by eighty percent between 1986 and 2001.³⁰

II. TRADING IN THE SAFETY NET FOR INDIVIDUAL RESPONSIBILITY

The dismantling of the welfare entitlement system came at an opportune time. President Clinton sought to tackle welfare reform at the end of his first term in office.³¹ Some experts believe welfare was overhauled as a result of its social, economic, and social stigma. As a social policy, welfare has historically been perceived as benefiting the “undeserving poor.”³² Resentment has existed in our society towards those on welfare because they are perceived to have received “something in return for doing nothing.” This attitude is perpetuated by beliefs that:

[W]elfare recipients are cheats and chiselers who live high off the dole while honest men work hard to make ends meet and pay taxes... [D]ivergent attitudes towards welfare clients have existed even in prosperous times, suggesting they may reflect a deeper cleavage between two sets of basic American values. One set emphasizes democracy and its associated virtues... [T]he other set stresses achievement and its corollaries: hard work and individual merit.³³

At the core of these stereotypes is the stigmatization of welfare as a social policy. As a result, welfare was never legitimately solidified as a “right” in

²⁸ See *id.* at 7.

²⁹ See Eugene Bardach, *Implementing a Paternalist Welfare-to-Work Program*, in *THE NEW PATERNALISM: SUPERVISOR APPROACHES TO POVERTY*, 248-278 (Lawrence M. Mead ed., Brookings Inst. Press 1997). Paternalism refers to the ideology in which the state serves as parent to its citizens, or “children.” Under the assumption that the state knows what is best for its citizens, the state heavily-handedly directs its citizens to comply with certain policies. Although paternalist policies may be initially viewed as controlling or punitive, they are ultimately implemented for the peoples’ benefit. Paternalist policies may likewise seek to change peoples’ behavior. Welfare reform is thus one such paternalistic policy. The government imposes obligations on welfare recipients because it is for their “own good” to work, get off welfare, and move towards self-sufficiency.

³⁰ LAWRENCE M. MEAD, *GOVERNMENT MATTERS: WELFARE REFORM IN WISCONSIN 3* (Princeton Univ. Press 2004).

³¹ See ROGERS-DILLON, *supra* note 27, at 149-50.

³² See TELES, *supra* note 15, at 2-3.

³³ SHARON PERLMAN KREFETZ, *WELFARE POLICY MAKING AND CITY 4-5* (Praeger Publishers 1976).

American society. This political and social attitude contributed to welfare's reformation. "Rights do their work by *entrenching* duties... they create a presumption that the duty will be fulfilled, even over countervailing considerations."³⁴

Furthermore, because those comprising the largest population on the welfare rolls were historically young single mothers,³⁵ welfare reform sought to target this group and end the cycle of dependency through a two-pronged paternalistic approach:³⁶ work in exchange for benefits instead of pure welfare, and a moral emphasis on the promotion of marriage and sustenance of two-parent families. In particular, through work, policymakers and President Clinton hoped that recipients could become active participants in their lives by "earning their keep." "Former *recipients* of the income maintenance program [AFDC] became *participants* in the program of [TANF]."³⁷ Not only would work serve a psychological effect of boosting self-esteem amongst participants, it would also demonstrate the inherent value and necessity of employment. By fostering a sense of the American work ethic, people would be able to—and want to—work, thus enabling them to leave the welfare rolls and eventually become self-sufficient. In order to accomplish this major task, welfare recipients would have to engage in work or work-related activities such as job-search, job-training, or educational programs to receive cash assistance. If the recipients refused or failed to work the requisite number of hours, sanctions would be imposed to reduce or terminate benefits.

A New Law with a Temporary Focus

As mentioned above, PRWORA's central goal was to "end the dependence of needy parents on government benefits by promoting job preparedness, work, and marriage."³⁸ The law focused on fostering a stable home environment through marriage and paternal involvement. To support this initiative, policymakers relied on studies showing that married households were less likely to fall into distress or poverty.³⁹ Ultimately, it was hoped that encouraging current welfare recipients to form stable home lives would speed their transition off the welfare rolls into work,

³⁴ Thomas F. Burke, *On the Resilience of Rights*, in *SEEKING THE CENTER: POLITICS AND POLICYMAKING AT THE NEW CENTURY 172-190* (Martin Levin, Marc A. Landy & Martin Shapiro eds., Georgetown Univ. Press 2001).

³⁵ *Congressional Budget Office Testimony Before the Subcommittee on Human Resources Comm. on Ways and Means* (1991) (statement of Nancy M. Gordon, Assistant Director for Human Resources and Community Development, Congressional Budget Office), <http://www.cbo.gov/ftpdocs/76xx/doc7636/91doc70.pdf>.

³⁶ See generally LAWRENCE M. MEAD, *THE NEW PATERNALISM: SUPERVISORY APPROACHES TO POVERTY* (Brookings Inst. Press 1997).

³⁷ See *CHANGING WELFARE SERVICES: CASE STUDIES OF LOCAL WELFARE REFORM PROGRAMS XIX-XX*. (Michael J. Austin ed., The Haworth Social Work Practice 2004).

³⁸ See 42 U.S.C.A. § 601(a)(2) (2004).

³⁹ Patrick F. Fagan, Robert W. Patterson & Robert E. Rector, *Marriage and Welfare Reform: The Overwhelming Evidence that Marriage Education Works*, THE HERITAGE FOUNDATION (Oct. 25, 2002), available at <http://www.heritage.org/Research/Welfare/bg1606.cfm#pgfld-1010842>.

and also prevent future generations from falling into the welfare dependency cycle. To achieve this end, the law granted states funding to promote marriage education and relationship counseling for men and women, as well as funding to state programs promoting “responsible fatherhood.”⁴⁰

In addition, TANF was passed in 1996 as the cash assistance program under PRWORA. TANF has radically transformed the welfare system and welfare culture and has set a new precedent. TANF, as passed, sought to move recipients off welfare dependency and into self-sufficient lifestyles. “Welfare reform is also based on the assumptions that welfare recipients try to maximize their well-being and that changing the incentive structure in the AFDC system was critical to lessening welfare dependence and ultimately to making poor families more self-sufficient.”⁴¹

TANF further allots to states significant policy discretion in enacting and implementing their welfare programs through a federal block grant. Under TANF, state welfare administrators stress the temporary aspect of government aid. Through this temporal aspect of welfare reform, welfare administrators encourage clients to plan for the future in terms of employment, education, and family stability. Specifically, these ends are attained through work requirements. Clients who are deemed eligible to receive welfare benefits must work or participate in job training, employment, education, or community service activities within two years of enrolling in the program.⁴² With TANF’s passage, states have to place forty-five percent of their caseloads into work or work-related activities.⁴³ Recipients also have to work a specified number of hours per week.⁴⁴ If these limits are not met, states risk reductions in their block grants. Single parents are required to work at least thirty hours a week and those in two parent families must work between thirty-five and fifty-five hours a week.⁴⁵

TANF also sets time limits for remaining on cash assistance. Clients can only remain on cash assistance for sixty months in a lifetime.⁴⁶ Within this sixty-month lifetime limit, states can choose their own timelines which mandate when recipients must begin to seek employment opportunities. Some states, for instance, require that clients begin job search activities within two years—twenty-four

⁴⁰ 42 U.S.C.A. § 603(2)(A)-(C) (1997).

⁴¹ See WEAVER, *supra* note 20, at 350.

⁴² See generally Andrea Wilkins, *Time-Limited TANF Recipients*, NATIONAL CONFERENCES OF STATE LEGISLATURES (July 2002), <http://www.ncsl.org/statefed/welfare/timelimitbrief.pdf>.

⁴³ Robert Rector, *Renewing Welfare Reform*, KNIGHT-RIDDER TRIBUNE WIRE, Feb. 16, 2006, available at <http://www.heritage.org/Press/Commentary/ed021606c.cfm>.

⁴⁴ See *id.* This hourly rate can vary from state to state. States may also choose to allow individual recipients to work less than the requisite number of hours per week depending on personal circumstances, such as the age of one’s children; see also Gretchen Rowe and Linda Giannarelli, *Getting On, Staying On, and Getting Off Welfare: The Complexity of State-by-State Policy Choices* 5, THE URBAN INSTITUTE (July 2006).

⁴⁵ Rowe and Giannarelli, *supra* note 44, at 5.

⁴⁶ See Wilkins, *supra* note 42, at 1.

months—of enrolling on assistance. Other states impose stricter guidelines, requiring that clients be employed after twenty-four months or they will be sanctioned and run the risk of losing welfare benefits.

After the time limits for receiving cash assistance expire, states can decide to extend benefits for certain individuals. States can also choose to impose a family cap condition such that any person who has additional children while on TANF is subject to penalties, such as the denial of certain benefits.⁴⁷ TANF also provides for non-cash assistance benefits such as child care, transportation vouchers, and food stamps.⁴⁸ Immigrants have restricted access to food stamps and disability benefits under TANF. Finally, if welfare recipients fail to meet their specified obligations under TANF, welfare agencies administer sanctions, ranging from a reduction in monthly cash assistance to complete denial of benefits.⁴⁹

As a result of these changes, the composition of welfare recipients has changed. Welfare rolls have declined tremendously, from 12.2 million recipients on the rolls in 1996 to 4.5 million in 2006.⁵⁰ The number of individual cases has declined by sixty-one percent and the number of families on the rolls has dropped by fifty-four percent.⁵¹ Some states have seen an even larger decrease in welfare rolls. As noted above, Wisconsin experienced an eighty percent reduction in caseloads between 1994 and 2000. Partially because of the reduced numbers of recipients, many hail welfare reform as proof of a successful bi-partisan public policy. “The 1996 Welfare Act shows us how much we can achieve when both parties bring their best ideas to the negotiating table and focus on doing what is best for the country.”⁵²

Despite praises, however, the 1996 reforms have been criticized for inadequately addressing concerns faced by the welfare population. Politicians, welfare administrators, and academics alike contend that welfare reform best serves those who are physically and mentally competent to seek employment. Another concern is that insufficient funding goes into providing adequate child care

⁴⁷ OFFICE OF FAMILY ASSISTANCE, TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF), SIXTH ANNUAL REPORT TO CONGRESS (2004), available at <http://www.acf.hhs.gov/programs/ofa/annualreport6/chapter12/chap12.htm#16> (last visited Sept. 24, 2004). As evident, New York does not impose a family cap policy. Also, it is important to note that PRWORA does not contain a family cap provision. See also *Family Cap Policies* National Conference of State Legislatures (2006), <http://www.ncsl.org/statefed/welfare/familycap05.htm>.

⁴⁸ See Austin, *supra* note 37, at xix-xx. In addition, TANF has increased child care provisions. Clients receive vouchers for child care and continue to receive them for up to two years after they lose TANF eligibility. Further, Medicaid eligibility is no longer contingent upon enrollment in TANF. States have discretion in determining which clients receive Medicaid. TANF has also strengthened child support enforcement provisions. In addition to cash assistance or if ineligible for cash assistance, clients can register for food stamps. TANF has simplified the food stamp process; however maximum benefits have been lessened. Disability insurance (SSI) standards are more stringent for children. The cases of those who qualify under SSI are to be reviewed more often than under TANF.

⁴⁹ See WEAVER, *supra* note 20, at 342-3.

⁵⁰ Bill Clinton, Op-Ed., *How We Ended Welfare, Together*, N.Y. TIMES, Aug. 22, 2006, at A19.

⁵¹ H.R. Con. Res. 438, 109th Cong. (2006).

⁵² Clinton, *supra* note 50.

services. As a result, many single parents have extreme difficulty fulfilling work requirements and caring for their children.⁵³ A further criticism is that welfare administrators should be doing more to help the “hard to reach” segments of the welfare population: particularly those who suffer from substance abuse problems and mental illness.⁵⁴

Furthermore, many individual welfare agencies may have difficulty serving the diverse needs of their populations. The variety of services a welfare agency provides can determine the effectiveness of welfare implementation, and the success of clients can hinge upon the breadth, availability, and quality of programs and services that supplement TANF work requirements. However, welfare administration is heavily tied to the economic cycle, the national economy, and the state budget. In times of economic prosperity, agencies can generally depend upon stable budgeting to provide adequate services to welfare recipients. A prosperous economy means a more reliable flow of resources will be available to TANF clients. On the other hand, during periods of slow economic growth, states will be more apt to cut TANF budgets.⁵⁵ This often translates into fewer resources, programs, and services for clients. Thus, welfare administrators’ success rates are connected to the amount of money and resources invested in TANF programs such as job preparation and job training programs. Budget constraints also negatively impact clients because welfare offices may have less funding to contribute towards welfare services in times of economic recession. Aid allotted to clients for housing costs, transportation, healthcare, childcare, and other necessities may become limited or even eliminated during periods of economic stagnation. Therefore, the status of the economy can directly impact TANF’s ability to reduce dependency, encourage work, and promote self-sufficiency.

The health of the economic cycle also directly determines the quality and availability of client employment. The majority of TANF clients possess few vocational skills and have low levels of education. As a result, they are only eligible for low-skilled and low-wage employment.⁵⁶ In a weak economy, there are more layoffs and fewer low-skilled jobs available. When clients lose employment because of a poor economy, some will return to the welfare agency for

⁵³ See WEAVER, *supra* note 20, at 4. Combined with an era of budget cuts and a stigmatized policy, the “money trap” ensues in which policymakers are reluctant to supply adequate funding for social programs which may be viewed unfavorably.

⁵⁴ See David Jason Fischer, *Re-Knitting The Safety Net*, Center For An Urban Future (2002), http://www.nycfuture.org/content/reports/report_view/cfm?repkey=74.

⁵⁵ However, by the very nature of the purpose and function of welfare services, this system of funding is counterintuitive. Welfare is intended to help people when they reach the very bottom of society, when their resources are utterly depleted, and when they have no place else to turn. Cutting aid to welfare agencies in order to stay in sync with the economic cycle cuts across the rationale of sustaining those who are most destitute.

⁵⁶ Lashawn Richburg-Hayes & Stephen Freedman, *A Profile of Families Cycling on and off Welfare*, Manpower Demonstration Research Corporation (2004), <http://www.mdrc.org/publications/396/execsum.html>.

subsistence and support until conditions in the labor market improve.⁵⁷ This cycling phenomenon logically occurs more frequently when the economy is in decline and less often in a strong economy. Cycling remains a considerable problem for welfare administrators, policymakers, researchers, and welfare clients. TANF was passed to create a transition from the era of welfare and dependency on cash assistance, to that of work and self-sufficiency. More than ten years after welfare reform, there have been significant improvements. President Bush and Congress, however, realized that more needed to be done to further tackle welfare dependency.

2006 Bush Reauthorization

As part of the Deficit Reduction Act of 2005, Congress reauthorized welfare reform in February 2006 pursuant to President Bush's recommendations. This reauthorization has been described as stringent. Specifically, the reauthorization represents a departure from the Clinton plan: it tightens the reins on state discretion, ups the ante on the total percentage of state caseloads that must be engaged in work requirements, and seeks to promote more expansive policies towards marriage and family stability. Clinton's plan "gave states a large amount of discretion... trust[ing] them to help families become self-sufficient."⁵⁸ On the contrary, President Bush's reauthorization restricts state freedom and imposes additional federal guidelines which states must follow if they wish to receive federal funding.⁵⁹ The new law limits state discretion by instituting mandatory work participation rates. "They define 12 acceptable types of work activity, including subsidized and unsubsidized employment, community service, on-the-job training, job search—usually limited to six weeks a year—and vocational education training—up to twelve months in a lifetime."⁶⁰ New definitions which delineate what constitutes "work-eligibility" are then used to calculate the amount of the state caseload that needs to engage in work. Now forty-five percent of state caseloads must be engaged in work or work-related activities.⁶¹ The start-off point for measuring reductions in caseloads is based against 2005 figures, not the 1995 baseline. According to policymakers, these changes will force states to adopt stricter work requirements and put more recipients into work or work-related activities in order to meet caseload reduction goals.⁶² In addition, to monitor recipients' work progress, states have to develop "work verification procedures."⁶³

⁵⁷ See Edin & Lein, *supra* note 9, at 67.

⁵⁸ See Pear, *supra* note 6.

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ See Rector, *supra* note 43, at 1.

⁶² *Id.*

⁶³ Press Release, Department of Health & Human Services, Bush Administration Releases Interim Final Regulation Implementing Next Phase of Welfare Reform (June 28, 2006).

If states cannot meet these goals, there are severe penalties like sharp reductions in federal funding.⁶⁴ As a result, states will have to dip into their own budgets in order to fund necessary programs.⁶⁵ The Congressional Budget Office anticipates that states will have to spend on average about \$2 billion a year to comply with reauthorization requirements and compensate for other necessary services.⁶⁶ “They will have to increase state spending in welfare or shift TANF funds from some of their current uses. Many will not succeed...”⁶⁷ Significant as well, marriage is now a critical aspect of the new law. TANF will now set aside \$100 million a year in funding to groups that work to promote marriage and family stability.⁶⁸ Although this policy initiative can be viewed as a positive step, it is conversely an additional stipulation that requires time and manpower to effectively institute; this initiative may also drain resources away from other vital yet neglected policy areas.

The Bush administration and the Department of Health and Human Services support the reauthorization’s tight work participation fixtures because national caseload declines since 1996 have remained stagnant. “Federal officials said they were adopting uniform standards because the definition of work now varied from state to state, and even from year to year within the same state. As a result... it is difficult to compare states’ performance.”⁶⁹ In addition, as of 1996, states had to employ fifty percent of welfare recipients. States could reduce their required work participation rate based upon how much their caseloads declined overall since 1995.⁷⁰ Since the passage of TANF, many states reached this rate quickly; as a result, their work participation caseloads were almost at zero percent. President Bush therefore aimed the 2006 reauthorization at encouraging employment through more intense standards targeting state caseload reduction. As Secretary of Health and Human Services Mike Leavitt stated in reference to the reauthorization, “[t]hese regulations complete what President Bush has called ‘the unfinished business of welfare reform.’”⁷¹

Nonetheless, there have been harsh reactions to the new welfare changes. Democrats are skeptical that states will be motivated to or be capable of changing their current practices. Many perceive the mandatory caseload reduction percentages as unrealistic and even counterintuitive. Rather than helping recipients find employment and leave assistance through self-sufficiency, welfare administrators may feel pressured to drop needy recipients off the rolls in order to

⁶⁴ Jack Tweedie, *State Flexibility Despite Tough New Federal TANF Rules* National Conference of State Legislatures (June 15, 2006), <http://www.ncsl.org/statefed/welfare/stateflex.htm>.

⁶⁵ Steisel & Tweedie, *supra* note 7, at 23.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ See Rector, *supra* note 43, at 1.

⁶⁹ See Pear, *supra* note 6, at A14.

⁷⁰ See WEAVER, *supra* note 53.

⁷¹ *Id.*

meet requirements.⁷² States may also have to impose harsher sanctions. Likewise, states have added pressure to provide much of their own funding to implement these new policies, which places a great strain on total state budgets and other state policies. Further, aspects of welfare reform that did not receive adequate attention prior to the reauthorization, such as counseling or services which target the “hard to reach population,” may receive even less funding now that state legislators and welfare administrators have to concentrate on reducing overall caseloads.⁷³ This may ultimately harm welfare recipients, especially those who are struggling to find and retain employment, or those who are unable to work because of problems associated with substance abuse, domestic violence, or mental illness.

However, despite criticism, it remains to be seen how President Bush’s reauthorization of welfare reform will actually fare. After all, President Clinton’s welfare reform sparked staunch uproar at its inception, although eleven years later, it has proven itself to be an extremely comprehensive and effective public policy reform.⁷⁴ As always, the states will be the true determinates of the success of the 2006 welfare reform reauthorization. In order to comprehend the enormity of the 1996 welfare reforms and the impact of the 2006 reauthorization on welfare administration and welfare recipients, it is useful to study a microcosm of activity where these reforms are the most salient. New York City is an appropriate microcosm for such study due to the large number of welfare recipients, administrators, and policies that function together.

As of April 2006, New York City reported 402,000 recipients on government assistance.⁷⁵ Added to this figure are the welfare administrators and policies that govern the entire system. Once the 2006 reauthorization becomes effective, the impact on New York City’s welfare system will be dramatic. The costs and benefits of the new reforms in New York can perhaps serve to indicate the possibility for success of this federal policy for the rest of the nation. This Note will analyze the effectiveness of New York City’s welfare reform policies. From this analysis, it will be possible to determine whether President Bush’s welfare agenda will aptly serve the interests of welfare recipients in Manhattan and beyond.

III. WELFARE REFORM IN THE BIG APPLE

Giuliani’s Bite at the Caseload

Rudolph Giuliani became Mayor of New York City in 1994, two years before passage of PRWORA. At that time an estimated 1.1 million New Yorkers were

⁷² See Pear, *supra* note 6, at A14.

⁷³ See Steisel & Tweedie, *supra* note 63.

⁷⁴ See Robert Pear & Erik Eckholm, *A Decade After Welfare Overhaul, a Shift in Policy and Perception*, N.Y. TIMES, Aug. 21, 2006, at A12.

⁷⁵ See Joshua Brustein, *Fighting Poverty and a Decade of Welfare Reform*, GOTHAM GAZETTE, June 19, 2006, available at <http://www.gothamgazette.com/article/20060619/200/1887>.

enrolled in New York City's Family Assistance ("FA") and Safety Net Assistance ("SNA") plans.⁷⁶ The Mayor quickly instituted a plan of "universal engagement" aimed at decreasing the city caseload by immediately putting as many welfare recipients as possible into employment activities.⁷⁷ Paralleling the federal plan, Giuliani's reforms were established within the framework of instilling personal responsibility amongst recipients. Like TANF, New York City reforms centered on strict work requirements with sanctions if recipients failed to comply. For instance, as of April 1999, seventy-nine percent of welfare cases in New York City were subject to work requirements.⁷⁸ The percentage of those sanctioned for noncompliance also rose over this time.⁷⁹ The city emphasized workfare amongst recipients and parents who were receiving assistance under FA had to work. In addition, recipients without children had to seek employment for thirty-five hours a week through the Work Experience Program ("WEP"), which placed recipients three days per week in city agencies and enrolled them two days per week in job training programs.⁸⁰ Eventually, as the welfare caseload continued to decline, recipients were also able to fulfill "work" requirements through participation in job training and educational programs.⁸¹

Giuliani also sought to help those who comprised the "hard to reach" population through programs which, in addition to a workfare component, included substance abuse and mental health counseling programs for those with English language barriers, services to young or pregnant mothers, and programs for those receiving sanctions.⁸² Giuliani's reforms were successful in reaching the "hard to reach": "in 2001, 70,000 individuals were involved at some point with one or more special programs."⁸³ Similar to TANF, Giuliani's plan also imposed a five-year time limit to help motivate recipients to obtain employment quickly, remain employed, and stay off the welfare rolls.⁸⁴ The Mayor also sought to reduce reliance on food stamps, which were viewed as a path to dependency: "Mayor

⁷⁶ See E.J. McMahon, *The Return of Dependency?*, CITY JOURNAL, Winter 2004, available at http://www.city-journal.org/html/14_1_the_return.html.

⁷⁷ See Jason Turner, "Universal Engagement" of TANF Recipients: *The Lessons of New York City*, May 8, 2003, available at <http://www.heritage.org/research/welfare/bg1651/cfm>.

⁷⁸ Demetra Smith Nightingale, et al., *Work and Welfare Reform in New York City During the Giuliani Administration*, July 31, 2002, available at <http://www.urban.org/url/cfm?ID=publications/410542.html>.

⁷⁹ *Id.*

⁸⁰ See *id.* See also Brustein, *supra* note 74.

⁸¹ In the last week of November 2000, about 25,000 persons were in WEP assignments, but only about 25 percent of those were in basic WEP. The other seventy-five percent were in WEP assignments that combined work experience with some other activity such as job readiness services, short-term training, or education. . . . In comparison, in the first week of April 1999, nearly ninety percent of WEP assignments had been of the basic workfare type.

See Nightingale, *supra* note 77, at 2,3.

⁸² See *id.*

⁸³ See *id.*

⁸⁴ See McMahon, *supra* note 75, at 1.

Giuliani treated food stamps as a dependency snare to be discouraged, even though, as a federal program, it didn't have an impact on the city budget."⁸⁵

The administrative aspect of the welfare system was likewise revamped. To reinforce the larger policy emphasis on work, welfare offices were converted to Job Centers. Any individual seeking cash assistance was instructed to search for employment.⁸⁶ The city also adopted new technology such as fingerprinting to document welfare recipients. Welfare caseworkers made house calls to ensure recipients were eligible and had provided the agency with correct information.⁸⁷ Giuliani set high standards for determining eligibility to prevent fraud: "[w]orking New Yorkers shouldn't have to fund a multi-billion-dollar welfare empire, he reasoned, unless the city could assure them that their tax dollars supported only the truly needy."⁸⁸

Ultimately, Mayor Giuliani's welfare reform initiative was successful, and between 1994 and 2001, the city caseload fell by sixty percent, from 1.1 million to 460,000.⁸⁹ The Commissioner of Social Services under Giuliani, Jason Turner, stated that New York City's welfare reform "produced the only system... with large-scale, alternative, practice work that has the potential to acculturate large numbers of the never-employed to the world of work."⁹⁰

However, critics of the Giuliani administration believed welfare recipients needed to be treated with more compassion and should be allowed more chances to comply with program stipulations, rather than immediate sanctions and "tough love." Giuliani fervently disagreed and argued in support of challenging the status quo, stating,

[c]ompassion doesn't consist in making people dependent, he argued, but in helping them to become self-sufficient. Compassion doesn't mean winking at welfare cheats on the assumption that they're probably poor anyway, so why bother holding them to the rules? It means respecting someone enough to believe that he can meet obligations like everyone else—and rise above his current predicament.⁹¹

⁸⁵ See *id.* Roughly 40,000 cases of welfare fraud and ineligibility were discovered as a result of Giuliani's efforts.

⁸⁶ See Nightingale, *supra* note 77, at 2,3. Throughout the course of welfare reform this tactic has been used by welfare administrators in order to motivate recipients to seek employment immediately rather than wait until their five year time limit expires. It conversely has been used to deter potential recipients from enrolling on welfare in efforts to keep local and hence state caseloads low; see also, Brustein, *supra* note 74.

⁸⁷ See Heather MacDonald, *Welfare Reform in the Balance*, CITY JOURNAL, March 21, 2002, available at http://www.city-journal.org/html/eon_3_21_02hm.html.

⁸⁸ See *id.*

⁸⁹ See McMahon *supra*, note 75, at 1; see also Frank Solomon, *Managing Welfare Reform in New York City*, POL'Y & PRAC. 31 (2006).

⁹⁰ See Solomon, *supra* note 88, at 31.

⁹¹ See MacDonald, *supra* note 86, at 1. Further, this ideology is parallel to those used by those to defend TANF against critics who claimed it would force thousands to spiral downward into poverty:

By the end of Giuliani's term in office in 2001, his "tough love" ideology had sparked innovative and effective welfare reforms. Policymakers, New Yorkers, and welfare recipients alike wondered what would become of Giuliani's welfare reform legacy.

Bloomberg's Transition

When Mayor Michael Bloomberg took office in 2002, many were skeptical that he would be able to maintain the successes achieved by Giuliani's welfare reform plan. However, Mayor Bloomberg held his own, and between 2001 and 2005 the welfare caseload in New York City declined by 80,000; as of the spring of 2006, there were 402,000 New Yorkers on public assistance.⁹² Mayor Bloomberg had proved he could stem the caseload tide. Despite criticism, Mayor Bloomberg has maintained many of the successful changes previously implemented by Giuliani.

However, a major difference between the Bloomberg and Giuliani administrations' approaches towards welfare reform is that Mayor Bloomberg "has said he wants to make it easier for welfare recipients to access education and job training, and his administration has boasted of the increased number of New Yorkers who receive food stamps—things unlikely to have been heard from City Hall during the Giuliani years."⁹³ There is still a five-year time limit to receive cash assistance. Mayor Bloomberg, however, places greater emphasis on providing access to food stamps and healthcare to recipients than Giuliani.⁹⁴ Mayor Bloomberg is also a proponent of aiding welfare recipients who face barriers to self-sufficiency, such as those who battle substance abuse, mental illness, or physical disabilities. Bloomberg also seeks to improve upon employment opportunities for those moving from welfare to work. His program seeks to identify available and viable employment opportunities and then train recipients for those jobs. Bloomberg proposed that "job training for welfare recipients should be oriented toward areas of need in the general city workforce."⁹⁵

[I]n a society as respectful of individualism as our own, full membership implies, some paradoxically, that social approval and a sense of self-respect hinge to a great extent on the successful achievement of autonomy, of taking control of one's life, which includes taking control of appearance, children, relationships, and so on. Getting a job is therefore only part of a much larger idea of membership in society that is distilled as learning to assume personal responsibility. Viewed in this light, responsibility is not just an obligation, it is also liberation from a life of passivity and disorganization.

Bardach, *supra* note 28, at 259.

⁹² See Moshe Adler, *NYC Mayor's policies on welfare contribute to city's rising poverty*, CITY MAYORS SOCIETY, May 14, 2006, available at http://www.citymayors.com/society/nyc_welfare.html; see also Brustein, *supra* note 74, at 1-5.

⁹³ See Brustein, *supra* note 74, at 1-5.

⁹⁴ See Fischer, *supra* note 53.

⁹⁵ See *id.*

Overall, New York City implemented a successful welfare reform policy whose innovations paralleled many elements of TANF. “Between August 1996 and February 2003, the caseload declined fifty-seven percent. This downward trend continued even after the 9/11 disaster.”⁹⁶ Nonetheless, numbers and statistics are not the sole indicators of the success of welfare reform. The true test of a policy is its practical day-to-day impact. For welfare reform, its success can be measured in terms of how many recipients are employed or in job training programs, by caseload reductions, and eventually by a marked decline in welfare dependency. According to the Bloomberg administration’s Back to Work program for those leaving welfare, eighty-eight percent of welfare recipients who obtain employment remain employed after three months and seventy-five percent remain employed after six months.⁹⁷ Additionally, “[i]n 2005, the city helped approximately 85,000 former welfare recipients find work, as opposed to 101,000 in 2002.”⁹⁸ These numbers indicate success under Bloomberg’s welfare plan. However, beyond these figures the results are unknown; former welfare recipients may obtain work independently.

Moreover, the Bush administration’s 2006 reauthorization poses additional challenges and may even exacerbate efforts to help the “hard to reach” segment. For instance, “[i]f New York State cannot meet the new requirement—fifty percent of welfare recipients participating in some form of work activity—then it stands to lose \$217 million, the lion’s share of which would have been used in the city.”⁹⁹ Additionally, because states have reduced flexibility to implement programs, it may be more difficult to motivate welfare recipients to work, provide them with necessary social services, and hence reduce total caseloads because states will have less funding and less policy freedom by which to implement these services. Both Mayor Giuliani and Mayor Bloomberg have been committed to reducing the city’s overall caseload through employment and employment-related activities. Now, however, there is less city and state flexibility and increased federal control. The future of welfare reform in New York City and nationwide is uncertain.

IV. WELFARE REFORM’S FUTURE

New York City Welfare: Still the Promised Policy?

The Clinton and Bush welfare reform plans rely on very different philosophies about what is required in order to achieve successful caseload declines and a healthy transition from government assistance to employment. President Clinton’s plan possessed a pure federalist ideology: it focused on “work-first” but

⁹⁶ See Turner, *supra* note 76, at 1-4.

⁹⁷ See Brustein, *supra* note 74, at 1-5.

⁹⁸ *Id.*

⁹⁹ *Id.*

more significantly, left considerable policy and financial discretion to the states. President Bush's plan is more centralized. While it is also work-centered, there are stricter work demands, caseload reduction requirements, and much less state flexibility. The next several years will be pivotal indicators of what constitutes effective welfare reform strategies and, significantly, which national policy has more successfully impacted New York City's welfare reform efforts. Although many results of the 2006 Bush reauthorization have yet to materialize, it is difficult to definitively determine which welfare policy is more beneficial for New York City. Nonetheless, comparison of the Clinton and Bush plans yields insight into which strategy is more effective for New York City.

Clinton's plan was revolutionary as PRWORA and TANF perpetuated unforeseen reductions in welfare caseloads. Collaborating with pre-existing state programs, the Clinton administration sought to incorporate the most innovative aspects of states' policies into the federal welfare legislation.¹⁰⁰ States were also given a large degree of flexibility to administer their own programs.¹⁰¹ In turn, states individually determined how to distribute and spend their federal block grant on welfare services: "[a]s caseloads declined, the states moved the federal money they would have spent on welfare benefits into work support-transportation, child care, and the like. In fact, under the states' management, welfare has morphed into an unprecedentedly generous work-support program."¹⁰²

New York City similarly flourished under the Clinton presidency, reporting caseload drops of over sixty percent.¹⁰³ These remarkable outcomes occurred in part because New York City was able to retain control over the administration and implementation of its welfare policy. For instance, the WEP's "universal engagement" plan, which sought to motivate the entire city welfare population into employment or employment-based activities, achieved record caseload declines.¹⁰⁴ Between 1996 and 2003, New York City's caseload fell by 57 percent.¹⁰⁵ New York City adapted well to changes passed under Clinton's welfare plan and met central policy objectives. Accordingly, because New York City thrived under President Clinton's welfare plan, it would be most advantageous that any subsequent reforms build and improve upon these prior changes.

In contrast, President Bush's welfare reauthorization represents a sharp departure from President Clinton's policy in part by imposing stringent mandates on welfare recipients, administrators, and states.¹⁰⁶ As such, New York City will have less independence in pursuing its welfare plan and consequently, may not be

¹⁰⁰ See ROGERS-DILLON, *supra* note 26, at 149-50.

¹⁰¹ See Pear, *supra* note 6.

¹⁰² See Kay S. Hymowitz, *How Welfare Reform Worked*, CITY JOURNAL, Spring 2006, available at http://www.city-journal.org/html/16_2_welfare_reform.html.

¹⁰³ See Turner, *supra* note 76.

¹⁰⁴ See *id.*

¹⁰⁵ See *id.*

¹⁰⁶ See Pear, *supra* note 6.

able to achieve desired results under the new law. Unlike President Clinton's 1996 welfare reforms, President Bush's welfare reauthorization plan may not pose a successful blueprint for welfare reform in New York City. Also, because the Bush reauthorization imposes demanding requirements in order for local state lawmakers to enable successful change, they will have to work to achieve policy consensus.¹⁰⁷

Political deadlock, combined with new budget constraints imposed by the reauthorization plan, and increased federal control may severely hinder welfare reform in New York City. As Lawrence Mead writes, "political conflict centers on how much government should do, rather than how best to do it. New York City Democrats insist on unusually costly and expensive programs, provoking bitter resistance from upstate Republicans and business."¹⁰⁸ Likewise, the New York City bureaucracy may be potentially disastrous for the continuing innovation and success of welfare reform so aggressively pursued by both the Giuliani and Bloomberg administrations.

The state also faces serious administrative problems, especially in New York City. The bureaucracy is large and well funded by national standards, but...it is reactive rather than enterprising. Administrators... await direction from elected leaders, but the latter are often divided or cautious, unwilling to advocate change...One long-standing problem has been an inability to build job search requirements into welfare.¹⁰⁹

It is undisputed that New York City has thrived in an environment which allowed the city to independently oversee its own policy development. Welfare recipients and administrators alike benefited from this regime. Although it is too soon to evaluate the impact of Bush's reauthorization, a decrease in policy flexibility will undoubtedly hurt the city's welfare reform efforts.

Also to be considered is whether the reauthorization will affect New York City's social service ideology. New York has an entrenched commitment to aiding the poor through generous social service supports.¹¹⁰ However, this may serve as a disincentive to prompting radical widespread change. "States with generous benefits like New York often do not feel free to reform welfare, because work demands might put in doubt the support that they have promised to poor families. In New York, an obligation to aid the needy is written into the state constitution."¹¹¹ On the other hand, New York City's alleged institutional resistance to change may actually serve to benefit the city and its welfare reform policy. The reauthorization in part mandates that 50 percent of welfare recipients engage in work or work-related activities and the new law also explicitly defines

¹⁰⁷ See Mead, *supra* note 29, at 222.

¹⁰⁸ See *id.*

¹⁰⁹ *Id.* at 222-223.

¹¹⁰ N.Y. COMP. CODES R. & REGS. tit. 18, § 352.31 (2006).

¹¹¹ See Mead, *supra* note 29 at 223; see also N.Y. CONST. ART.. 17, § 1 (1938).

what qualifies as “work.”¹¹² These stringent guidelines force welfare bureaucracies to not only assertively promote employment and employment-related behavior amongst recipients. The new requirements also demand increased oversight of welfare administration. As a result, welfare administration is under scrutiny which will optimistically prompt improvement and increased efficiency.

Further, it is uncertain how New York City’s “universal engagement” program will now fare. Instituted under Mayor Giuliani, this policy is aimed at the entire welfare population and provides a framework by which to immediately move recipients from government assistance to work.¹¹³ If “universal engagement” remains intact, it can serve as an effective counterpart to President Bush’s reauthorization policies. Both plans stress optimizing work participation among all able welfare recipients. Upon enrolling on welfare, work, job training, or education is immediately emphasized.¹¹⁴ In addition, both programs impose strict sanctions if requirements are not met within allotted timeframes.¹¹⁵

Budget constraints will also determine the success of city and state policy implementation. This financial consideration affects the viability of New York City welfare policy because budgeting is a trickle-down system. For instance, reductions in the federal block grant impose added pressures on the states to appropriate funding for welfare programs in order to meet federal requirements.¹¹⁶ In state budgets, money ordinarily trickles down from the state legislature level to counties, cities and localities. If state budgets are constrained by a reduced national budget—which affects specific state programs such as TANF—then it follows that each city and locality will receive less funding for such programs.

The Administration and House Republicans seem to have cast aside two once-sacred Republican principles: devolution, the idea that programmatic decision-making should take place at as close a level to “the people” as possible; and principled opposition to “unfunded mandates” of Congress that impose new obligations upon states and localities without providing the resources to meet those obligations.¹¹⁷

Budget pressures may not be entirely negative. Because Washington is not providing adequate federal funding to states for certain social programs—such as health care—the states will have to find ways to appropriate money for such necessary policies. However, the states cannot always take on the burden of funding these basic programs alone. In fact, a recent trend among the states is to

¹¹² See Steisel & Tweedie, *supra* note 7, at 23.

¹¹³ See Turner, *supra* note 76.

¹¹⁴ See Brustein, *supra* note 74. Under the Bloomberg Administration, welfare recipients can even attend college classes through the Welfare Rights Initiative. This counts towards one’s required employment hours.

¹¹⁵ See Steisel & Tweedie, *supra* note 7, at 23.

¹¹⁶ See Ron Haskins & Mark Greenberg, *Welfare Reform, Success or Failure?*, 64 POL’Y & PRAC. 10 (2006).

¹¹⁷ See Fischer, *supra* note 53.

assertively pressure the federal government into providing aid so states are able to develop and better fund their own social policies. This is a particularly salient development for programs which the national government cannot garner enough consensus in order to implement.¹¹⁸ As the Bush welfare reauthorization progresses and if states find they are unable to adequately meet their requirements due to budget constraints, states may be forced to “petition” the federal government for more monetary assistance, perhaps with little likelihood of success.

Also, evaluating economic cycling can serve as an indicator of the success of welfare reform in New York City and nationwide.¹¹⁹ In order to combat this cycling effect, states and the federal government need to apportion specific expenditures to welfare reform programs and stick to these spending initiatives.¹²⁰ Ideally this commitment should be continuous when the business cycle is both prosperous and when it is not.¹²¹ Unfortunately, the Bush reauthorization will make such a plan implausible by reducing state block grants for welfare reform if states incur penalties for non-compliance. In turn, states will be forced to spend more of their own money on welfare.¹²² In New York City this predictably will make maintaining the current system difficult.

City budget officials estimate that the Governor’s budget proposals will reduce federal welfare funds to the City by \$185 million annually beginning in Fiscal Year 2007. Last year, the State enacted similar changes in welfare funding formulas that reduced the City’s welfare revenues by \$175 million, but the City offset the impact with other federal and State categorical resources. The City may not have the same flexibility next year.¹²³

Therefore, state budget limitations combined with increased federal mandates may force welfare offices to “stretch their resources too thin to provide real support to recipients, especially since [the 2006 federal block grant to states] keeps TANF

¹¹⁸ See generally Robert Pear, *Child Health Care Splits White House and States*, N.Y. TIMES, Feb. 27 2007. States most recently are demanding national funding for child health care insurance, which the federal government is reluctant to provide, claiming that other budgetary priorities take precedence.

[W]hen President Bush reported on progress of the war, governors pressed him to provide more money so they could guarantee health insurance for children. In response, administration officials said states should make better use of the money they already had . . . Having successfully expanded the health insurance programs in their states, some governors now suggest that the Bush administration is pulling the safety net out from under many children . . . Many governors want to expand the program, which they see as a foundation for their efforts to expand coverage generally.

Id.

¹¹⁹ See Richburg-Hayes & Freedman, *supra* note 55.

¹²⁰ See Haskins & Greenberg, *supra* note 115.

¹²¹ *Id.* This reiterates the concept that the current system of welfare funding is counterintuitive. Funding should be spent on welfare programs during a recession as this is when welfare recipients have the most difficulty attaining employment and thus presumably are the most dependent upon government support.

¹²² See Pear, *supra* note 6.

¹²³ Office of the State Comptroller 6 (Aug. 2006), <http://www.osc.state.ny.us/osdc/rpt8-2006.pdf>.

at current levels, despite the fact that inflation will erode the real value of appropriation.”¹²⁴ Even if New York City is able to set aside a sufficient amount of funding to promote welfare to work for those most able-bodied recipients, the worse off amongst welfare recipients will still be left behind.¹²⁵ As a result, this “hard to reach” segment may not receive necessary services.¹²⁶ In addition, if all available funds must be utilized in order to meet new federal requirements, there will be little or no money remaining to devote towards policy improvement or development. “The welfare legislation requires states to get a much larger share of welfare recipients into federally defined work activities or else face funding cuts. Compliance will probably distract states from innovating with services that have longer-term payoffs for the most disadvantaged.”¹²⁷ In turn, these budget constraints may harm New York City welfare recipients in need of additional services.

Their first order of business should be giving parents access to unemployment-insurance benefits or a cash welfare benefit to tide them over during periods of unemployment. And parents with limited skills, insufficient work experience and health problems—characteristics that distinguish extremely poor disconnected parents—need hands-on help in finding a job. These families also need child care, health insurance and Food Stamps as they move into work... welfare programs should encourage work, invite the most disadvantaged families to seek help, and provide them with more intensive case-management services.¹²⁸

Deterrence or diversion is also a legitimate concern. It is likely welfare offices may be forced to turn potential welfare recipients away because of stringent work guidelines combined with the demands placed on states amidst budget constraints. Funding that was available to help states cope with welfare recipients during the 1996 reforms is now nonexistent.

The unanticipated exodus from the welfare rolls during the first TANF left states with more money than had been expected to spend on remaining participants, including those who were working but not earning enough to leave welfare. With a similar drop in welfare enrollment unlikely and many of those left on the rolls facing more serious barriers to employment, this effective decline in support will make it that much harder for states to work effectively with recipients.¹²⁹

Potential welfare applicants may forgo even applying for assistance because they expect to be turned away. These concerns are not unfounded. Deterrence or

¹²⁴ See Fischer, *supra* note 53.

¹²⁵ See Teles, *supra* note 14, at 183-184.

¹²⁶ See *id.*

¹²⁷ Pamela Loprest and Shelia R. Zedlewski, URBAN INSTITUTE, *Welfare Reform Must Fix Safety Net*, (Aug. 25 2006), <http://www.urban.org/publications/900991.html>.

¹²⁸ See Pamela Loprest & Shelia R. Zedlewski, *supra* note 126-127.

¹²⁹ See Fischer, *supra* note 53.

diversion of potential welfare recipients has occurred in the past when the rules of the welfare system have changed. For instance, during the Giuliani administration's universal engagement program, critics remarked that thousands of applicants who were in need of welfare assistance were deterred from even applying as a result of the harsh sanctions and mandatory work requirements.¹³⁰ Therefore, budget constraints imposed on states and cities under the 2006 reauthorization impact the ability of welfare offices to serve recipients in a multitude of ways. The existing framework of welfare services is essentially at a crossroads. Only the passage of time will indicate how well New York City's welfare system will adapt.

V. THE NEXT PHASE OF WELFARE REFORM

As the Bush reauthorization begins to take effect, additional policy successes and failures of welfare reform will emerge. Although the effectiveness of the 2006 changes will take months and perhaps years to assess, it remains certain that passage of legislation alone is not enough to reform the welfare system. It is therefore necessary to study strategies to improve upon PRWORA and TANF. The promotion of marriage and family stability is one such policy improvement. Many welfare recipients are single mothers who may have difficulties coping with the enormous stresses of motherhood and employment requirements. Although a goal of PRWORA is to promote marriage and encourage welfare recipients to raise children in two-parent families, this issue was not assertively enforced during welfare reform's first decade. Recognizing the hardships associated with single parenthood, the 2006 reauthorization aims to place marriage and family stability at the forefront.

Although the original welfare-reform law set symbolic goals for increasing marriage and reducing out-of-wedlock childbearing, most state welfare bureaucracies simply ignored these objectives... For the first time, a small portion of TANF funds—\$100 million per year—will go to local groups enthusiastic about restoring marriage... the new marriage program... will be a bold departure from old-style welfare policy.¹³¹

These programs also seek to involve fathers in welfare reform efforts, realizing the connection between family stability and two-parent involvement. "Growing up without a father in the home has other harmful long-term effects on children. Children raised in single-parent homes are more likely to become involved in crime, have emotional and behavioral problems, fail in school, abuse drugs, and end up on welfare as adults."¹³²

Additional innovations in welfare policy should seek to improve access to educational opportunity. Welfare administrators need to encourage clients to earn

¹³⁰ See Brustein, *supra* note 74.

¹³¹ Rector, *supra* note 43.

¹³² See *id.*

their GED and perhaps pursue higher education. These educational initiatives specifically relate to the ability of welfare recipients to transition from assistance to employment and “effective welfare practice includes both a steady push to move recipients into jobs and generous supports for those making the transition to work. This means reliable childcare, health care, housing, and transportation assistance, and access to relevant education and vocational training.”¹³³ Education particularly can help to sever the welfare dependency cycle. As education allows for the acquisition of skills, welfare participants with high school diplomas and post-secondary degrees will ideally be able to earn higher wages and retain employment instead of being subject to whims of the economic cycle. This point is cited by critics who say many welfare programs do not do enough to provide current and former recipients with marketable skills. As a result, many programs now are emphasizing adult education for recipients to enable welfare-leavers to more easily obtain employment and remain employed.¹³⁴

Access to health care is likewise a crucial component of any successful welfare reform program. Healthcare is a major barrier to the self-sufficiency of those leaving the welfare rolls. If recipients receive adequate health care, those who are working with physical impairments may be able to remain employed for longer periods of time, enabling them to transition towards self-sufficiency.

Another crucial area that needs consideration is that of urban ghetto. The prevalence of drugs, gang violence, on going crime, and poverty paralyze even the most progressive social programs. The progress of welfare clients can be constantly undermined by their home environments. The availability of drugs, alcohol, violence, and hopelessness of the urban ghetto reinforces ailments from which people seek liberation. Unless policymakers seriously seek to eradicate crime and violence in these communities, life in the urban ghetto will continue to serve as a counter-agent to beneficial social policies.

Lastly, policymaking alone cannot succeed at achieving welfare reform’s objectives. Both legislators and welfare administrators need to collaborate to best implement the 2006 reauthorization.¹³⁵ As welfare administrators and caseworkers apply welfare reform’s policies by working directly with recipients, they are in the best position to encourage recipients to meet TANF’s goals. Allowing states to maintain flexibility over welfare reform policy is also crucial. States must be allowed to oversee their welfare programs and budgets in order to allot the necessary amount of control to welfare offices on the ground. Localized management ensures that caseworkers possess the resources and administrative

¹³³ See *id.*

¹³⁴ See Gayle Hamilton, *Moving People From Welfare to Work, Lessons from the National Evaluation of Welfare-to-Work Strategies*, MASSACHUSETTS RURAL DEVELOPMENT COUNCIL, (2002), <http://www.mdr.org/publications/52/summary.html>.

¹³⁵ See *id.*

capacity to aid recipients and competently further the true objectives of welfare reform.

Welfare Reform: Still Unfinished Ten Years Later?

As is the case with welfare reform at the national level, welfare reform in New York City has undergone tremendous improvements. Under the ambitious direction of both Mayors Giuliani and Bloomberg, caseloads have declined while “universal engagement” assertively seeks to transition recipients from assistance to work or work-based activities.¹³⁶ The city’s welfare system and recipients alike thrived under President Clinton’s policy initiatives. New York City can continue to succeed with the onset of President Bush’s 2006 reauthorization; success today however, will be more difficult. Stringent federal work mandates, limited state flexibility, budget cuts, and other factors place added pressure on state and local welfare administration. This new degree of federal control increases the existing bureaucratic framework. As there are more requirements and more demands, but the same amount of federal funding, welfare administrators may not be able to serve the needs of all welfare recipients. Also, due to increased demands on local administrators, clients who require special services or more supervision may not be able to receive as much personal attention. Consequently, welfare recipients may be significantly worse off.

Nonetheless, as welfare reform enters into its second decade on the American political landscape, it is easy to make observations pertaining to this policy’s successes and failures. Caseloads have plummeted, millions are making the arduous transition from assistance to employment, and both recipients and welfare administrators are expected to demonstrate accountability and personal responsibility for their actions such that the system continues to function. Not so easily noted are the ways in which welfare reform alters the culture of policymaking, specifically as it relates to federalism. President Clinton’s plan rested on ideals of devolution. Although federally administered block grants and mandates formed the overarching system, each state was forced to develop and implement strategies to solve its own welfare crisis. Washington passed PRWORA and then delegated the responsibilities of implementation to the states.

President Bush’s reauthorization, in contrast, has ushered in a new era of federalism. Now the federal government has stepped in and is heavy-handedly directing state action. On its face this change may not be entirely detrimental, as national cohesiveness and improvement underlies the ideology that the fifty states must “sink or swim together”¹³⁷ thus similar national criteria must stringently apply to every state. A closer look, however, demonstrates this conception is fundamentally flawed. Every state—and each community which has its own

¹³⁶ See Turner, *supra* note 76.

¹³⁷ See Saenz v. Roe, 526 U.S. 489, (1999) (quoting Justice Cardozo).

welfare office— has varying demographics and is composed of different welfare populations which have diverse identical needs. A national policy that mandates strict federal oversight, on the one hand, does so to promote uniformity and to ensure that certain minimum standards are met. On the other hand, if each state is not allotted more flexibility to devise and implement its own solutions, then the distinct needs of recipients will be neglected. Furthermore, if Washington insists on uniform standards, it must provide the necessary support so the states can aptly comply. This is not being done. New stringent mandates are instituted without additional state funding or policy guidance. As a result, if budgets, policies, and federal support for state independence remain stagnant, welfare reform will continue to remain an unfinished policy that ten years after its inception, falls needlessly short of its monumental potential.