WELFARE FRAUD INVESTIGATION

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Senior Investigator
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Bureau of Investigation

Proven approaches to welfare fraud investigation and prevention are revealed in this unique handbook. The author details the management of an investigative unit, and he specifies techniques for thwarting, discovering and prosecuting welfare fraud. The text emphasizes the value of using police officers rather than welfare personnel. It scrutinizes organizational elements: agency conflicts and cooperation, unit administration and case selection, prosecutorial preparation, and post-verdict follow-up. It also explores such investigative particulars as record keeping, evidence handling, interrogation, equipment, searches, and arrests. This authority and breadth make the book an invaluable guide, not only for welfare fraud investigators *per se*, but also for other front-line practitioners and administrators of social work and law enforcement.

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PREFACE

BOTH WELFARE AND LAW ENFORCEMENT personnel should find material of value in respective parts of this book. The book will examine welfare fraud and review approaches that have proved to be effective in investigating and preventing fraud in welfare programs. It is intended to be of interest to the practitioner as well as the basis for academic courses in the social welfare and criminal justice fields.

The responsibilities of various agencies for the detection and investigation of welfare fraud are discussed in detail. Emphasis is on management's planning for meeting current responsibilities for controlling fraud in welfare programs. Current problems and attitudes affecting the implementation of effective controls are discussed.

Besides fraud unit management, this book's second primary goal is to be a guide on how to conduct a welfare fraud investigation, from detection through investigation and presentation for prosecution. The welfare cheater is a criminal and is the responsibility of all segments of law enforcement. This book will attempt to expand the interest of law enforcement personnel and to demonstrate their responsibility in handling the complex problem of welfare fraud. The author believes there are many nonburdensome actions which police departments can take and should take to meet their organizational responsibilities.

G.W.H.

INTRODUCTION

THIS BOOK reports an experiment with major efforts to combat welfare fraud, its results, and recommendations for those contemplating similar efforts. The experiment involved strategic changes in the welfare fraud program of the nation's largest county and an organization was used based on experience of its effective employment techniques.

Social welfare programs in the United States have been the greatest expenditure of resources for a category of programs in the history of mankind. Their necessity and merit relative to defense and other federal governmental purposes have been the subject of monumental debate and political activity. The description of the program (in Part I) shows that they are actually a very fragmented collection of programs administered across all government levels by a variety of hierarchies. The programs' integrity and security have been viewed as sub-functions of the programs themselves, with resulting variations in ineffectiveness.

There have been common perceptions of rampant fraud in welfare programs, without accurate means of identification or measurement. In Los Angeles County, welfare fraud was seen by many as out of control. Moreover, the management effort at improving the situation through detection, identification, investigation, prosecution, and general management was considered by many in and out of the welfare programs as generally ineffective. A sense of responsibility and a desire to improve the situation emerged among welfare and law enforcement officials, resulting in the Los Angeles Experiment as described herein.

Welfare fraud is not only a flaw in program integrity but often a criminal offense. Existing law enforcement agencies were accustomed to general law enforcement and criminal investigation, having necessary personnel and resources, but were not familiar with nor oriented toward participation in welfare fraud activity. The vast expenditure of public funds in so many widespread social programs at all levels suggested a society-wide resonse to the fraud problem, including the potential use of the society's criminal law enforcement system.

Part I examines the scope and nature of the social welfare programs and how this translates from federal budgets to on-the-street eligibility. Part II discusses the agencies involved in program administration and integrity as well as law enforcement and its personnel, focusing on their respective orientations, motivations, and capabilities.

The Los Angeles Experiment initially was to measure the effectiveness of using peace officer personnel in the traditional welfare fraud investigation role. Their unique powers, training, and experience were expected to have impact on their success in conducting investigations and criminal prosecutions of fraud perpetrators. The expectations were quickly confirmed, but more importantly they were found to be highly effective in the identification and investigation of some particular kinds of cases — those involving multiple or fictitious identities and forged documentation.

Such cases had always existed but were not as amenable to detection by the methods of the traditional welfare fruad investigators as to those of the peace officers. The organization being "real life" rather than an experiment per se, the original hypothesis tested — that peace officers would be more efficient than nonpeace officer investigators — was abandoned and the expriment became reoriented toward determining effective and efficient uses of peace officer investigators. Not only were such uses identified but spin-offs in terms of improved fraud detection and identification systems also resulted.

The findings and conclusions of the Los Angeles Experiment are presented. Particularly emphasized in great detail are the resulting recommendations for welfare fraud management, investigators, and prosecutors to conduct similar experiments in their own jurisdictions, working from the base established in this project. The effort was believed successful, resulting in knowledge of greatly improved techniques for welfare fraud prevention and investigation.

G.W.H.

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Part I

WHAT IT IS: WELFARE IN THE UNITED STATES

CHAPTER 1

SCOPE OF WELFARE IN THE UNITED STATES AND TYPES OF "WELFARE"

THERE IS no one single "welfare" program in the United States, nor in any state. The term "welfare" includes numerous conglomerations of programs with complicated eligibility requirements. No one, not even workers in the field, could be expected to be familiar with them all.[1]

FEDERAL EXPENDITURES AND BUDGETS

The United States Department of Health and Human Services is government's largest spender. The Department of Health, Education, and Welfare was created in 1953 with an annual budget under $2 billion; the 1978 budget was $164 billion, an increase of 8,100 percent in 25 years.[2] By 1982, the Department of Health and Human Services' budget outlay had inreased to $251 billion with $392 billion projected for 1988. The DHHS share of the total 1982 federal budget outlay of $728 billion was 34.5 percent.[3]

The Social Security Administration (SSA) is one of four divisions of DHHS and is responsible for Old Age and Survivors' Insurance (OASI – renamed Retirement and Survivors' Insurance in 1984), Disability Insurance (DI and OASDI), Supplemental Security Income (SSI), Aid to Families with Dependent Children (AFDC), and others, and processes Medicare for the Health Care Financing

Administration. SSA's 82,000 employees pay benefits to over 36 million people, using 24 percent of the 1982 budget. Even minor improvements or fraud prevention can save hundreds of millions, or billions, of tax dollars.[4]

In comparison, Department of Defense spending rose from 48 to 111 billion dollars from 1953 to 1978. The 1982 budget outlay was $183 billion. The Department of Justice outlay in 1982 was $2.6 billion.[5]

The federal budget is expressed in "budget authorizations" and "budget outlays," as well as in expenditures by departments and by functions. For example, in 1982 the Department of Defense (DOD) budget authority was $213.8 billion, the DOD budget outlay was $182.9 billion, the "national defense" authority was $218.7 billion, and the "national defense" outlay was $187.4 billion. It thereby becomes a challenge to analyze the budget for total expenditures for "welfare" or anything described so generally.

For this study the 1982 budget outlays by function were used; exceptions will be apparent. The major, specific programs are mentioned, but "welfare" could include aspects of many other programs not described herein. For example, "social services" account for $6 billion under the Education, Training, Employment, and Social Services Function Code.[6] The result is that the following description of the scope of welfare and benefit payments is clearly understated, although it should serve the purpose of illustrating the pervasive extent of welfare in American society.

President Ronald Reagan, in his 1984 budget message to the Congress, stated that when he took office "our economy was in the worst mess in half a century." He blamed this on government spending policies, excessive taxes, and lack of growth.

> One of the key detrimental forces has been the growing Federal budget. Despite our success in reducing the rate of growth of nondefense spending in the last two budgets, spending in 1983 will exceed 1981 levels by 21 percent, reflecting continued *increases in basic entitlement programs* [emphasis added], essential increases in defense spending, and rapid growth of interest costs.[7]

From this and information shown in the following figures, it seems evident that social welfare spending has been a major factor shaping American society.

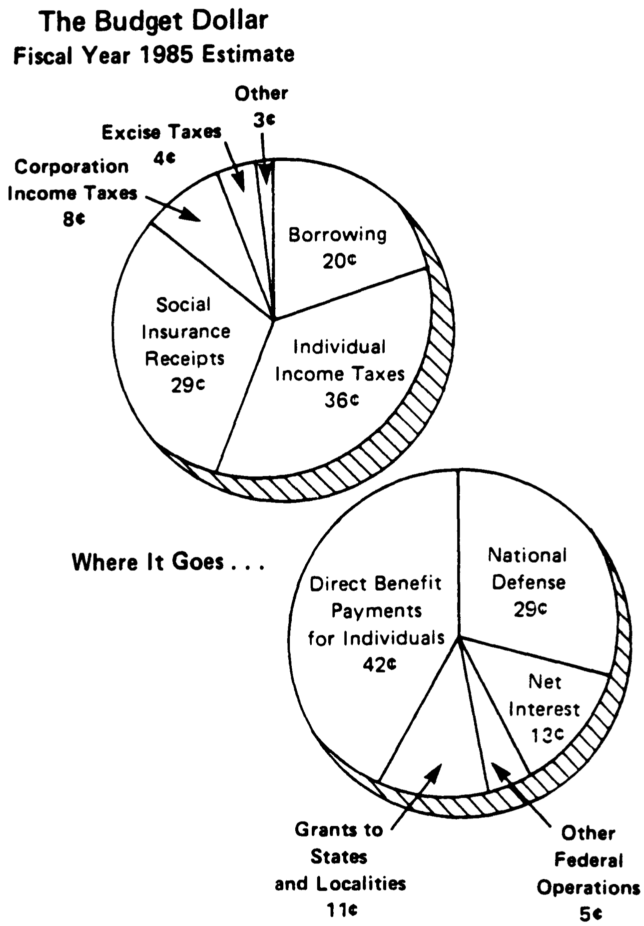

Figure 1. The Budget Dollar, FY85. Source: FY85 Budget, p. M-2.

In terms of numbers of people receiving welfare benefits, there were 3.8 million families receiving AFDC payments in 1981, totalling $12.5 billion. The 22.5 million people receiving Medicaid were paid benefits of $22.8 billion.[8] In Los Angeles County, California, one billion dollars annually is paid to one million recipients (mostly AFDC) at one hundred field offices, which see 250,000 people per month.[9]

Figure 1 shows the sources of federal income and how it is

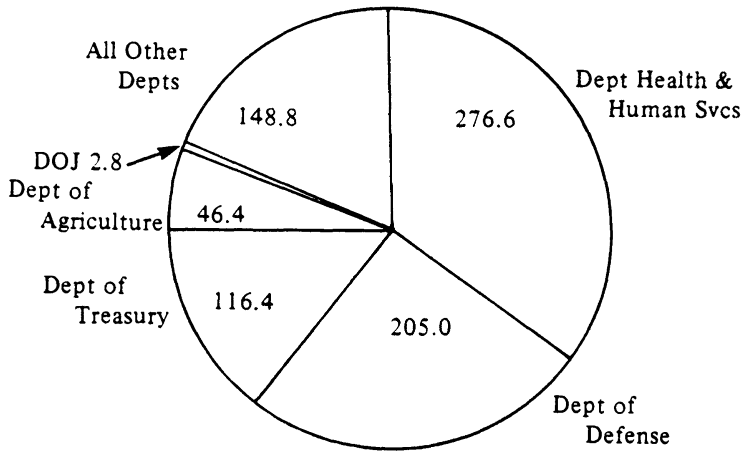

Figure 2. 1983 Budget Outlays by U.S. Departments. Source: FY85 Budget, p. 9-5.

spent. "Direct Benefit Payments for Individuals" is, in large part, what is being termed "welfare," although it includes other things. The "Grants to States and Localities" are often spent by them on other welfare programs. The "Social Insurance Receipts" are principally payroll taxes collected, such as under the Federal Insurance Contributions Act (FICA) and unemployment insurance.

Figure 2 shows the "actual budget outlays" expression for United States departments in 1982. The same information is expressed by functions in Figure 3. Figure 4 shows the composition of "Income Security," which includes the major "welfare programs" of the federal government.

STATE AND PRIVATE EXPENDITURES

The figures above show the proportion of the massive federal budget spent on welfare programs. Although federal money is the largest portion of welfare expenditures, all the states also spend large percentages of their budgets on welfare programs. For example, in the massive AFDC program, "Federal financial contributions range from 50-78 percent of benefit costs. State program administration costs for AFDC and food stamps are split evenly between Federal

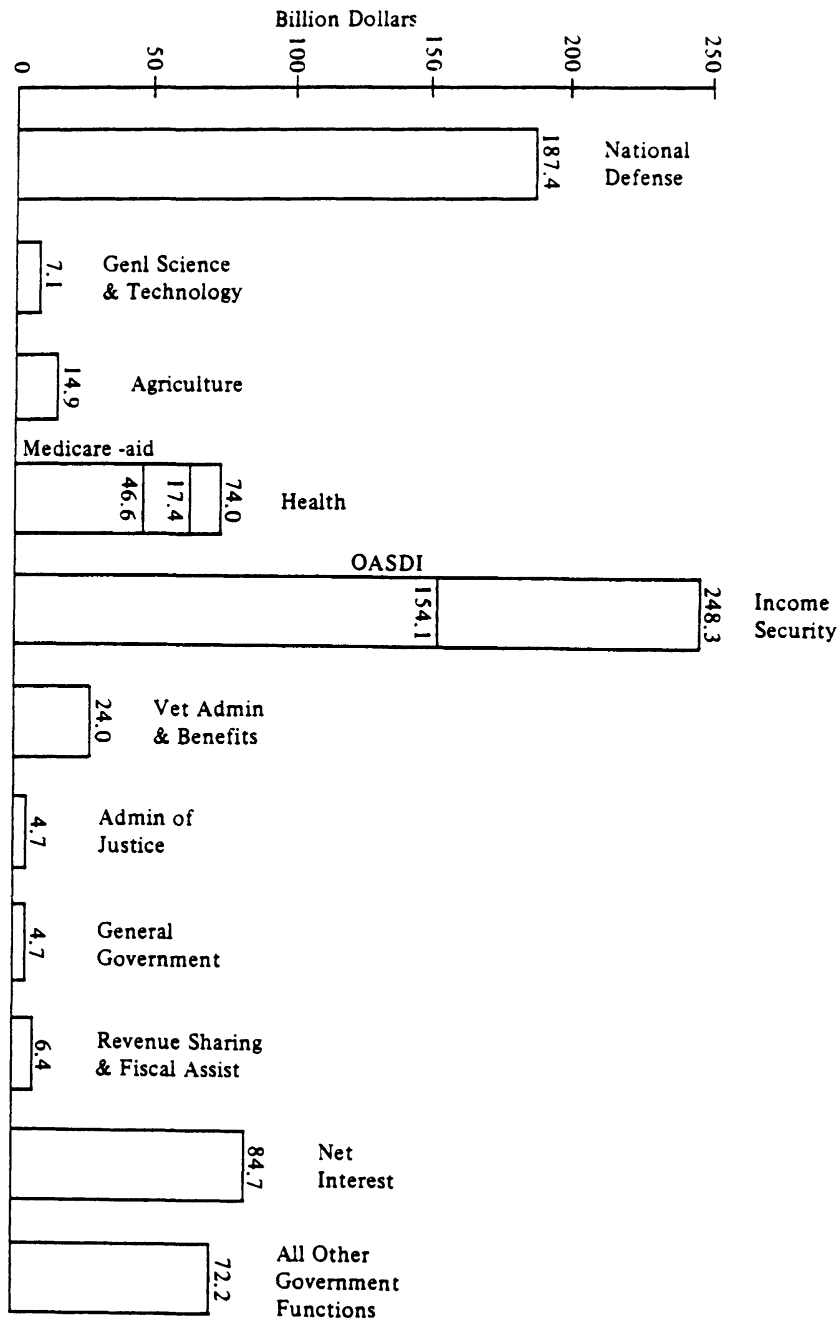

Figure 3. 1982 U.S. Budget Outlays by Function. Source: FY84 Budget, p. 9-5.

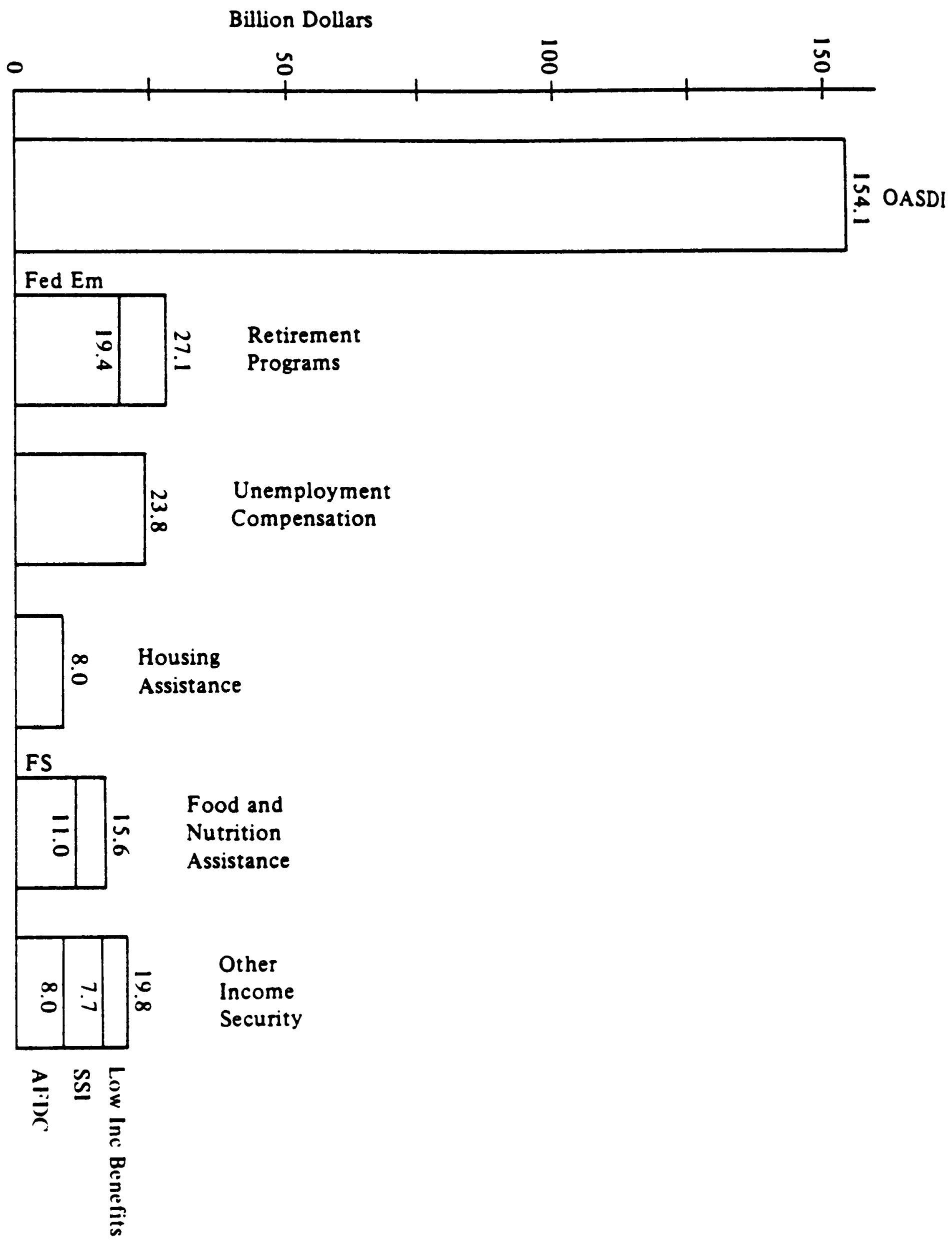

Figure 4. Income Security Outlays in 1982 U.S. Budget. Source: FY84 Budget, pp. 5-114, 5-115.

and state funds."[10] The financial expenditures of states and administering counties are thus seen to be quite substantial, although no attempt has been made to estimate them here.

Additionally, states have the option of supplementing federal programs at their own cost, and many do so. They are also free, of course, to initiate welfare-type programs of their own. In total, the states could be spending nearly as much as the federal government on aid to the needy.

Nongovernmental programs of a charitable nature are quite diverse and entail expenditures of great amounts of money. Again, no attempt has been made here to categorize or assess their extent.

TYPES OF WELFARE PROGRAMS

Most social welfare expenditures are public income-maintenance programs. Those receiving the greatest funding are evident from the data above. Obviously, social security and public employee retirement benefits are the largest, followed closely by public assistance and unemployment benefits. Although not shown above, in the 1970s about two-thirds of all federal grants to state and local governments were also for social welfare programs, about half for public assistance.[11]

Benefit Programs

Most of the departments of the federal government have programs which include some form of benefits which might be called "welfare," in the sense that they involve payments to needy individuals or groups for social improvement or development.

For example, the United States Department of Agriculture spends only about 10 percent of its budget on agricultural services and research! Two-thirds of its expenditures are devoted to assistance programs.[12] Food stamps alone equal as much as one-third to one-half of the Department of Agriculture budget.[13]

There is a tendency by the uninformed to think of welfare as anything where the recipient "gets something for nothing." This simplistic definition, though clear, is not very helpful in understanding the nature of "welfare" programs. It is necessary to examine each individual, totally separate program to know its purpose, qualifications, extent, and fraud vulnerability. A single definition of "welfare" would not only be unnecessary but might inhibit looking beyond the concept to specific programs as is necessary.

It is a responsibility of those charged with program management to evaluate susceptibility to fraud and respond accordingly. Moreover, law enforcement personnel need to be vigilant to theft vulnerability from government programs as well as seek and appreciate intelligence about ongoing thefts. In many programs there is no one agency dedicated to fraud prevention or with knowledge of both the program and fraud investigation.

The budget figures above show where large dollar amounts are being expended. The following is a very brief discussion of some of the programs and how they might be susceptible to fraud. This is not to suggest that these are the commonly occurring frauds or even that they do occur. The examples are merely to illustrate a manner of thinking that both program administrators and law enforcement officials could adopt to improve their consciousness of loss potential in very high dollar-value public programs. (The following are in sequence of budget function codes, using 1982 outlays.)

Specific Programs

The Department of Agriculture spent $14.9 billion, of which $13.3 billion was for farm income stabilization. The purpose was essentially to maintain the market value of food and fiber products through purchase of excess production and payment, often through payment-in-kind, to farmers who do not produce commodities in surplus in certain years. What is the opportunity for fraud by intentional misreporting of acreages, storage, and production?

There were $26.3 billion spent for education, training, employment, and social services, including $6 billion for the latter.[14] Is there a likelihood of claims for bogus training or "services" not actually provided?

The $74 billion spent on health by the federal government includes $46.6 billion for Medicare and $17.4 billion for Medicaid (supplemented by states).[15] There is extensive literature about fraud in medical programs, especially by service providers.

Social Security is the largest single income security expenditure. A program involving nearly every citizen is rife for fraud potential. The use of phoney social security numbers for illicit purposes is legend. What prevents also obtaining numbers and social security benefits for fictitious persons?

The potential for abuse in $23.8 billion of unemployment compensation is fairly evident, but how about outright fraud? Who would be responsible for detection and investigation?

The Food Stamp Program, with a budget of $11 billion, is another about which much has been written concerning abuses. Moreover, every AFDC recipient automatically qualifies for food stamps, resulting in fraud in both programs and probably in Medicaid, when AFDC fraud occurs. Traditionally, the program has specified more reliance on recipient honesty than have the AFDC and other programs.

The Supplemental Security Income (SSI) expenditure of $7.7 billion is based on income maintenance for aged, blind, and disabled persons. In 1972, Congress combined programs for these three separate categories, then administered by the states, into SSI, administered by the Social Security Administration. SSI is paid to 3.6 million recipients from general tax revenues. Recipients get a monthly payment which, when added to their own resources, is supposed to equal about $290 per month.[16]

The federal government also administers about $2 billion of state funds added to SSI for 1.7 million recipients in 27 states. The federal government reimburses the states for "erroneous payments" it makes of their money in excess of 4 percent error. SSA spends $7 million per year to determine this $27.2 million reimbursement, termed "federal fiscal liability."[17]

Discussion of fraud in the $8 billion AFDC program is deferred, since it is the main subject to follow.

An additional $4.1 billion is spent on low-income benefits under the Other Income Security function. The earned income tax credit costs $1.2 billion and is supposed to be an incentive for recipients to become employed and thereby minimize other welfare costs. Since the payment mechanism is through income tax reporting, the potential for fraudulent claims is at least as great as the incidence of income tax cheating. Apart from the Internal Revenue Service, inundated with larger fraud cases, who should be detecting fraud in earned income claims?

Over a billion dollars is spent on refugee assistance and $1.7 billion goes to low-income home-energy assistance. Either probably has fraud potential when such large amounts are involved.

Again, the point here was not to allege particular ongoing fraud or misfeasance but to emphasize the huge dollar expenditures in a vast array of programs with tremendous potential for criminal fraud in diverse ways. The reader should now appreciate the scope and diversity of "welfare" in the United States, as well as the potential for fraud and the need for concern by administrators not directly charged with oversight of some specific program. The integrity of the greatest collection of social welfare programs in the history of mankind requires awareness by all elements of society and its administrative and protective agents.

Aid to Families with Dependent Children

The Aid to Families with Dependent Children (AFDC) Program was summarized quite well in the President's Private Sector Survey on Cost Control, Report on the Department of Health and Human Services, Social Security Administration, as follows:

> *AFDC Program* – Title IV of the Social Security Act established the AFDC program in 1935. The Act authorized the Federal Government to appropriate funds from general revenues to provide cash assistance and social services to needy children and their parents or other relatives. AFDC is a needs-based program administered by state and local governments in accordance with provisions of the Social Security Act and HHS regulations. Beneficiaries receive monthly checks which are funded by both the states and the Federal Government. Federal financial contributions range from 50-78 percent of benefit costs. State program administration costs are split evenly between Federal and state funds.
>
> AFDC benefits, eligibility criteria, and program administration vary widely from state to state. For example, the maximum AFDC monthly benefit for a one-parent family of three persons in March 1982 was $96 in Mississippi and over $500 in California, New York, Vermont, and Alaska. This variation results from

broad-based Federal regulations which allow the states great discretion in setting program benefits, defining need, and establishing eligibility standards.

In FY 1981, about 11.1 million people in 3.8 million families received benefits totalling approximately $12.7 billion. Federal and state administrative costs amounted to about $1.6 billion. The Federal Government paid $6.8 billion (or 54%) of benefit costs and $0.8 billion (or 50%) of administrative costs.

SSA's Office of Family Assistance (OFA) oversees state administration of the AFDC program. OFA reviews state AFDC program plans to ensure compliance with Federal regulations and statutes, and provides technical assistance to improve program operation and administration. SSA's Office of Assessment, AFDC Quality Control (QC) unit, is responsible for developing AFDC QC system standards, assessing state QC program integrity, and validating state error rate statistics.

The AFDC quality control program — the purpose of the QC program is to measure the degree of error in state AFDC caseload payments. State QC reviewers select a random sample of cases and then verify beneficiary eligibility and payment accuracy. Errors are classified as overpayments or underpayments to eligible beneficiaries, as payments to ineligible recipients, by type of inaccuracy, by source of incorrect payment, and by where in the payment process the error occurred. The data are compiled to produce statistically significant payment and caseload error rates for a six-month sample period. (Note: payment error rates refer to the proportion of the total sample benefit dollars paid in error and caseload error rates refer to the proportion of the total sample caseload which exhibited errors.)[18]

The AFDC Program is particularly significant to the subject of welfare fraud for several reasons. It has consequently been the program of focus herein. It is the program most thought of as "welfare" and its recipients are the stereotypical "welfare family." It is the oldest large welfare program now in existence and has been the model for many others. Those who meet eligibility criteria for AFDC are frequently thereby placed in the "welfare" category and deemed eligible for other benefits or programs. For example, AFDC eligibility automatically carries food stamp and usually Medicaid eligibility. Even private organizations consider AFDC status in selecting assistance beneficiaries.