

Race and Welfare: The Unspoken Variable

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I. THE EFFECTS OF RACE IN THE DISTRIBUTION OF FEDERAL PUBLIC ASSISTANCE

In order to analyze racial discrimination in the distribution of government welfare benefits, one must establish whether or not such problems exists, whether and how they may be documented, whether the problem is isolated to rogue actors or representative of a policy trends and what causes the problems that may be found.

In analyzing the effects of race on the distribution of public assistance, my focus is on the inadequacy of current welfare anti-discrimination policies. I will attempt to discern from the available data, clear and consistent patterns of discriminatory abuse, as distinguished from subjective criticism of patterns of distribution. Further, I will suggest ways in which states and the Federal government can promote more equitable distributions of welfare benefits and services to all races.

II. How Race Discrimination Can Be Identified.

Welfare allocations, in theory, ought to be need-based. Analyses of need ought to incorporate factors such as a family's size, structure and income level. Welfare recipients currently enrolled in a state "workfare" program may be considered, under, state and federal laws, "employees" and may thus be protected by applicable civil rights and labor laws. However, distribution of welfare can often allow for subjective factors to play a role in analyses. This subjectivity may be hard enough to detect in substantive dollar allocations and even harder within programs that are established to offer educational and employment advice, encouragement and direction. Largely because any disparities may be hard to explain or account for, federal data collection agencies may not have an urgent vested interest in compiling and analyzing data that would appear to give a clearer insight into the effects of race upon the distribution of welfare benefits. The results of this data may reveal embarrassing trends that may be politically difficult to explain and remedy.

A study conducted by Elizabeth Lower-Basch, Office of the Assistant Secretary for Planning and Evaluation of the Department of Health and Human Services, has isolated several areas in which race disparities may appear. They include the number of families receiving AFDC/TANF (by

race), distribution of AFDC/TANF (by race), and various indicators of success regarding welfare "leavers" (by race). Most of the following statistics are not self-explanatory as to why they are different by race but do point out significant gaps among them.

Numbers of Families and Poverty Rates, United States, 1985 - 1999, by Race									
	1985			1999			Change 1985-1999		
	White	Black	Hisp.	White	Black	Hisp.	White	Black	Hisp.
# Families with children under 18	24,916	4,636	2,973	24,784	5,585	5,320	-0.5%	20.5%	78.9%
# Poor families with children under 18	2,776	1,670	955	1,984	1,615	1,330	28.5%	-3.3%	39.3%
Poverty rate, families with children under 18	11.1%	36.0%	32.1%	8.0%	28.9%	25.0%	27.9%	19.7%	22.1%
# Female headed families with children under 18	3,737	2,269	771	4,252	2,892	1,353	13.8%	27.5%	75.5%
# Poor female headed families with children under 18	1,266	1,336	493	1,079	1,333	630	14.8%	-0.2%	27.8%

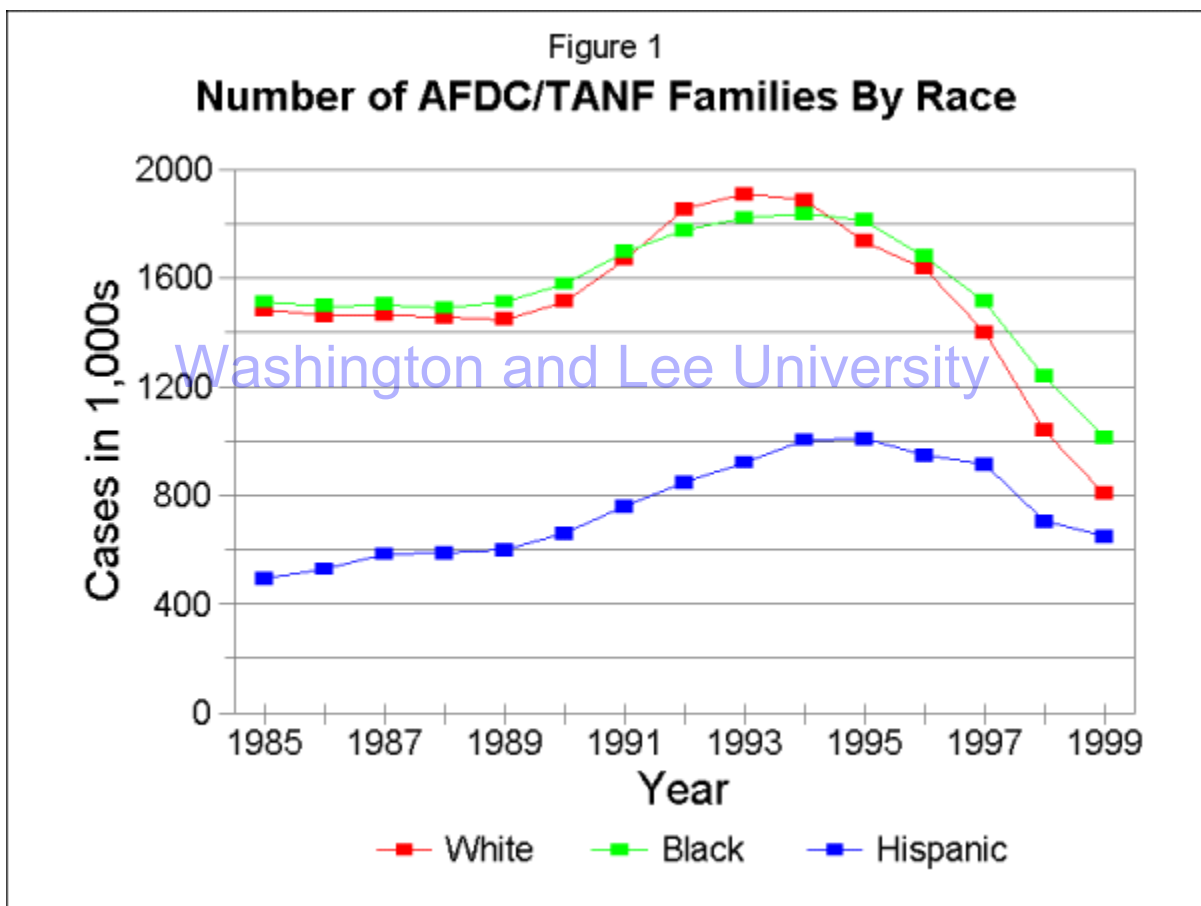
Poverty rate, female headed families with children under 18	33.9%	58.9%	64.0%	25.4%	46.1%	46.6%	-	-	-
	25.1%	21.7%	27.2%						

Figures in thousands.
 "White" means Non-Hispanic White.

Source: U.S. Bureau of the Census, Historical Poverty Tables, Table #4.

The proportional changes in poverty rates among the races, as indicated above suggest the possibility that government programs designed to combat poverty are not having the same effects across racial lines. Further, this suggestion may be compounded when accounting for the actual number of people within the racial categories that fall below the poverty line as compared to the rate of change regarding their welfare status. The chart bellow indicates an overall decrease in families receiving welfare benefits from the period of 1985 to 1999. This trend was given a large surge largely attributable to The Personal Responsibility and Work Opportunity Reconciliation Act (PWRORA) of 1996 signed by President Bill Clinton. From 1996 to 1999 there does appear to be a widening gap that has remained in place, between the number of black welfare leavers and white welfare leavers. Like so many of these charts and studies, it is not clear what the underlying

problem is. This illustration, however, clearly demonstrates that the effectiveness of welfare policy has not been realized by racial groups equally. The number of white recipient families is shown to be declining more rapidly (50.6%) than their Black counterparts at (39.6%). While there is an 11% reduction difference, it may be indicative of a larger trend.



Unlike census data compilation, research into discriminatory practices at the federal level may

potentially create political backlashes that will not serve the legislator's and politician's interests particularly well. The lack of federal analyses into the practices of state administrators that are directly involved in allocation decisions begs further inquiry.

It is for this reason that a significant portion of the research and analyses on these discrepancies have and will continue to emanate from academia and other independent research organizations rather than from the federal government.

Prof. Susan T. Gooden, of the Virginia Technical University has studied race disparities in welfare application for many years. In 1996 she initiated a study of Virginia's "Virginia Initiative for Employment not Welfare" (VIEW) program. While the study was taken only in Virginia, and only in a limited sample of communities, she hoped that the implications of her findings would cause questioning of wider welfare policy reforms. Much of her data was based on subjective responses of participants regarding how they were treated. At a quick glance, this data could be dismissed as being non-scientific. Many of the questions posed by the study, are subjective in nature and fail to distinguish recipient perceptions of their treatment from actual discrepancies in service provision.

As a general concern, I was not able to isolate reasons why some of the questions were not posed more objectively. The responses and subsequent analyses do help isolate obvious discrepancies. The questions were posed in a double blind format and later adjusted for variables including education. Additionally, many of the response show sufficient disparities to indicate unequal application of welfare benefits and services.

The first of Prof. Gooden's inquiries was into "Welfare Client's Experiences with Caseworkers regarding job opportunity notification". Some 59% of white clients reported that their caseworkers were either "sometimes" or "often" helpful whereas only 36% of black respondents reported the same treatment. By contrast, 23% of all blacks reported that their caseworkers were never helpful and thus served fewer of the purposes of the program. This category is only instructive in framing the varying perspectives because from a legal vantage point, without more, an inquiry into "helpfulness" is uselessly ambiguous. This study would have been far more instructive if the questions were posed in terms of the actual number of job opportunities reported by the caseworker. My sense is that what the surveyors were hoping to gauge is the number of

job notifications received based on race as opposed to how the clients felt about their treatment. Because of the parity sought amongst applicants by the conductors of the research, the wide disparity between whites and blacks regarding job notification may be tangibly gauged by the actual number of notifications received. Gooden explains that many of these disparities may be based on cultural biases that case workers bring to their jobs subconsciously. To that end, the study also took demographic account of the composition of the Social Services staff which served the clients in the study. She found that the Culpepper Department of Social Services has two black staff members out of thirty five total; this amounts to just under 6% black representation.

By contrast, the community served by this agency is 52% black. When asked about this phenomenon, agency representatives indicated that the discrepancy was based on black attrition to higher paying jobs elsewhere rather than a lack of commitment to diversity.

While representatives of the agency did not feel that race was a cognizable factor in their application and distribution of services, many of the clients may have believed otherwise. That too, was not particularly clear because the surveys measured satisfaction on a number of

levels but did not ask specifically if they had reason to believe race to be the central factor.

Later aspects of the study revealed more tangible and quantifiable discrepancies. In the segment of the study regarding the degree to which caseworkers assisted with transportation, the survey revealed that over 66% of the respondents sought assistance. Of that larger group almost identical percentage of blacks and whites (68% and 65% respectively) sought assistance. The primary reason for transportation assistance was to seek and maintain gainful employment. The study indicated that of the barriers faced by the respondents, many could be addressed and relieved with the help of social services. These obstacles include lack of a functional transportation vehicle, lack money for gas, or repairs, and in some cases lacking a driver's license. The study indicated parity amongst races with regard to gas vouchers; however, 47% percent of white respondent indicated that they were offered additional transportation assistance beyond gas vouchers. By contrast, absolutely none of the black respondents reported the same thing. The study reports several respondent accounts of caseworkers' statements that were plainly different and possibly disingenuous, regarding the goals and the capabilities of the agency.

For example:

White participants sample:

Interviewee #13- "I have to take a cab now because I don't have a car or driver's license. My worker (caseworker) said that DDS can pay for the driver's license and may be able to get me a cheap car afterward. The driver's education course is on Saturday. She has been very helpful.

Interviewee #37- "I own my own car but I need a brake job. I contacted DSS about my car. She told me she will try to come up with some money to get it fixed."

Black Participants sample:

Interviewee # 25- "DSS gives me money for gas. I have a car and a job but it needs about \$300 worth of work so I can use it. I asked DDS if they had any funds for car repairs but she said I should try to use the gas vouchers to take a cab or ride with a friend until I save enough money to get my car fixed."

Interviewee # 28- "They [DSS] keep asking me when I will get a car. I told them I've got to pay rent, utilities, and other bills first. She seemed to understand but said she could not do anything about it."

These quotes are from Susan T. Gooden's article: "All Things Not Being Equal: Differences in Caseworker Support Toward Black and White Welfare Clients"

From these accounts, it is not clear whether these interviews were conducted in person or over the phone. It is also not clear whether the less helpful caseworker responses are those of particularly inept service providers or representative of a pattern or policy within the department. While these responses leave many questions as to the circumstances of the dialogue, if the apparent disparate treatment can be attributed to intentional race

discrimination, it would be illegal and a violation of the 14th amendment "Equal Protection" clause. Further, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) specifically incorporates Title VI of the Civil Rights Act of 1964 (Title VI). In 2001, The United States Supreme Court decided the case of Alexander v. Sandoval, 532 U.S. 275 (2001), which largely denied an individual's ability to file an independent Title VI action against discriminative regulations without a prima facie showing of discriminatory intent. That case involved a state regulation that only allowed the issuance of driver's licensing in English which had a discriminatory effect on non-English speaking applicants. The Court determined that the specific language governing the implementation of regulations did not expressly provide for individual rights to enforcement.

Gooden's research additionally addressed the disparate level of encouragement to seek further education among whites and blacks. Her study acknowledged procedural factors explaining how the pursuit of further education can initially conflict with certain work requirements of the program. It went on, however, to report that 41% of white respondents reported that their caseworkers encouraged them

specifically to attain a minimum high school diploma or GED as compared to none of the black respondents.

For example:

White respondent sample:

Interviewee #24- "They encourage me to get me GED. I've been in school since October, working on the GED [view was implemented in July.] I hope to graduate in the spring. My worker kept telling me, 'You're smarter than you think.'" She really convinced me that I could do it...No one has said to me "have you found a job?' They just give me encouragement and say 'you can do this.'"

Black respondent sample:

Interviewee # 23- "They talk to you in a kind of way. They say, 'Go get a job. I told them that I only had two parts left on my GED and I wanted to finish', they said 'That's not what this program is about.'"

These quotes are from Susan T. Gooden's article: "All Things Not Being Equal: Differences in Caseworker Support Toward Black and White Welfare Clients"

Prof. Gooden hypothesizes that the disparate levels of education encouragement can largely account for the corresponding employment disparities that follow. Similar studies suggest a pattern of disparate encouragement toward further education. A study conducted by the Chicago Urban League and The Center For Urban Economic Development at the University of Illinois, reported that more than 50% white welfare recipients in Illinois were referred to further educational programs while receiving caseworker support, as opposed to only 18% of low income blacks in the same service area.

Summation of Gooden's Research

Unfortunately, these examples still only represent an opportunity for the development of legal strategies to document and combat racial inequities in welfare programs. Many of these inquiries were not conducted with objective questioning as if part of a deposition. Accordingly, the conclusions to be drawn from the studies are limited by the subjective nature of some of the questioning. While these statistics paint a definitive picture for the purposes of intellectual debate, I think more needs to be done to frame a legal debate toward change. The following chart indicates the outcome of the Gooden study as broken into category and race:

Washington and Lee University

View Participants' Experience with Caseworkers (Percentage Responding yes)

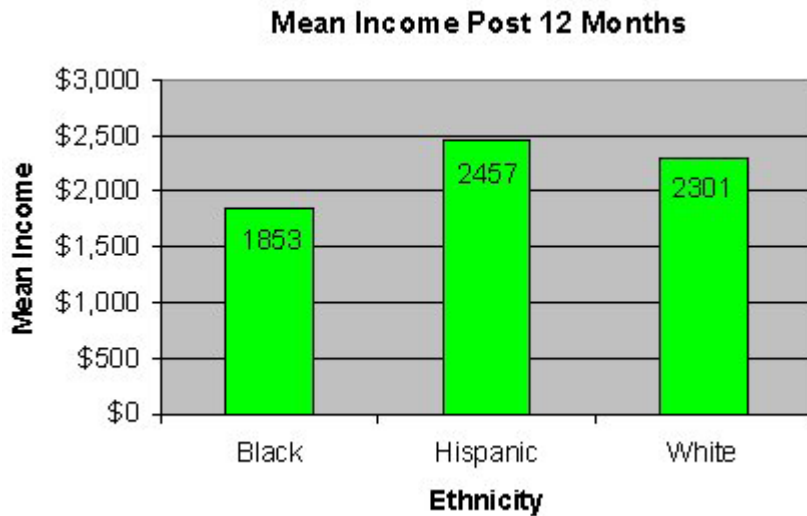
Indicator	Black (N=22)	White (N=17)	x²	p-value
Caseworker helpful in notification of jobs	36	59	1.946	.1629
Caseworker encourages/supports increased education	0	41	11.04	<.0001
Caseworker willing to provide discretionary transportation assistance	0	47	13.02	<.0001
Caseworkers/DDS treat black/white clients fairly	41	53	.5586	.4548

When seen graphically, the glaring inequities are hard to ignore. Subjectivity among participants may not fully explain such disparate numbers. Similar studies conducted

by the Scholar-Practitioner Program of the W.K. Kellogg Devolution Initiative.¹ One of their studies analyzed former welfare recipients in Florida to examine how they fared economically after participating in “welfare to work” programs within the state. Within a year, the study could detect significantly lower levels of income in black families as compared to whites and Hispanics. The incomes of whites and Hispanics, by contrast, increased during the same period of time. The study also showed that blacks left welfare programs due to noncompliance at a rate of 21.3% as compared to whites at 6.38%. This could also be attributable to a break down in communication between clients and caseworkers based on racial and cultural differences.

¹ **Successful Welfare Leavers in Florida:** *A study of Racial and Ethnic Disparities in Income Levels and Their Relationship to The Federal Poverty Level*, by Robert E. Beneckson

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Further, the study indicated that among 140 welfare leavers over five Florida counties, whites were more likely than blacks to be currently employed. (49.3% as compared to 32.7%). Moreover, blacks had household incomes 2/3 less than their white counterparts and earned less per hour than whites. The administrators of this program should be held to document whether the same tools for success were made to all participants regardless of race.

Because welfare benefits are distributed by states, it is often difficult to make general analyses of federal welfare policy at a national level. However, the implications and hypothesis of the Gooden study in Virginia, if accepted as valid and applicable on a larger

scale, could help explain the disparities that are found in other states that remain unexplained. More precise studies with the intent of Gooden's studies need to be conducted in other states for proper analysis.

II. Why Race disparities exist

Much of the research available on this issue indicates that many of the defects that create racial disparity are rooted in ignorance and neglect rather than a systematic predisposition against racial minorities. In reality, there is not conclusive data to prove why these disparities exist. None of the studies cited in my research speak to this issue but rather address whether an underlying problem of racial discrimination may exist. Federally allocated funds must comport with Constitutional provision that prohibit intentional discrimination based on race. The government has an obligation to acknowledge and remedy programs that fall short of this requirement.

Author Kenneth Neubeck, of the University of Connecticut, addresses the detrimental effect that stereotypes have in affecting our nation's perspective on race and welfare. He argues that the politics of race in welfare offers political traction to all who use the issue for personal gain. He points out that politicians who incite racist beliefs that blacks are "lazy", would prefer

to be sustained by the government than to be self-sufficient, and have fallen into a "cycle of dependency", are no less successful at appealing to their political base than are politicians who mold welfare reform as benevolent gesture to one race over another. His point is that politicians on all sides of the American political spectrum are capable of manipulating issues regarding race in dialogues involving welfare. He points out that when Pres. Clinton made the now famous statement regarding "ending welfare as we know it", while signing the 1996 PRWORA Act, he surrounded himself with single black mothers for the press photos that followed. He argues that this manipulation has created the negative synergy between "race" and "welfare" in the minds of many Americans.

Neubeck writes "Welfare racism exists and persists because it serves three major social stratification and social control functions for racialized societies and their "racial states[of mind]." He argues that welfare racism provides: 1. social prestige for the general white population, 2. political and career power for its politicians and other elites, and 3. economic acquisition for nation's economic elite in the form of a large and easily exploitable low-wage labor pool. While this maybe

largely conjecture, his words offer a framework for analyzing what causes these disparities to exist and why they are often hidden.

Prof. Gooden also suggests that the race disparities that exist are largely subtle, and hard to document. If her conclusions credible, the misapplication of discretionary funding for transportation, job training notification, and educational support can largely account for why whites may fair better in and on their way out of our current welfare system without larger societal outrage. Some of these studies do not go far enough to connect race discrimination to the disparate race statistics. There are variables regarding culture (trust, community ideology, tradition, pride), health care and others that could also account for some of these disparate numbers.

III. Steps the government has already enacted to address this problem.

Tom Perez, the Director of The Office of Civil Rights (OCR) a subsection of the Department of Health and Human Services (HHS), spearheaded an effort analyze race disparities in welfare programs. TANF is an HHS block grant and HHS is the proper agency to address this problem. Under his leadership, HHS has enacted a program called

"Technical Assistance for Caseworkers on Civil Rights Laws and Welfare Reform." Though Perez has left his post, this

program still exists. It was designed to help caseworkers identify and address discriminatory practices. The program is more aggressive about specifying what types of conduct are prohibited. A glance at a representative sampling below, shows government insight and speculation into how such discrimination may occur.

Programs **may not exclude or deny welfare benefits** to persons based on their race, color, national origin, disability, or age, or on the basis of sex in education programs.

Examples:

- Welfare caseworkers may not reject an applicant for benefits because he is or appears to be an African American, Hispanic, Asian, American Indian, Alaskan Native, or a member of another racial or ethnic minority.
- County employees may not make an assumption regarding a person's citizenship and/or eligibility for welfare or food stamp benefits based on the person's last name and then reject the applicant on this basis.
- A TANF contractor's employees may not deny benefits to persons who are not fluent in English because they assume persons who are or appear to be from other countries, and are not English proficient, are not eligible for such benefits.

Programs **may not impose different standards or procedures to determine who may receive benefits** on the basis of race, color, national origin, disability, or age, or on the basis of sex in education programs.

Examples:

- Employees may not require an African-American male to submit additional or different documents than what is asked of a white male to establish his legal status and eligibility for welfare benefits in the absence of evidence to warrant further inquiry.
- If a local welfare office accepts a particular INS Form to establish a white woman's eligibility for welfare benefits, the welfare office cannot require a Hispanic male applicant who submits the same form to provide additional proof of his legal status and

eligibility for welfare benefits in the absence of evidence to warrant further inquiry.

- A provider of TANF assistance under a program requiring verification of qualified immigration status may not accept a self declaration of such status from applicants who appear to be of African origin, yet require all immigrants from Spanish speaking nations to submit INS documentation because of an assumption that these applicants are illegal aliens.
- A welfare provider's intake personnel may not report suspected illegal aliens to the INS on the basis of race, color, or national origin. Independent evidence supporting such suspicions is necessary.
- Employees should not question the authenticity of documents submitted by applicants who are or appear to be Hispanic, in the absence of independent evidence to warrant such inquiry. All documents should be presumed to be authentic and legitimate, if they appear genuine on their face and relate to the individual.
- If States choose to impose drug testing on participants, they must do so without regard to race, color, or national origin. For example, if a sample of the participant population is tested, the race and ethnicity of members in this sample may not be disproportionate to the race and ethnicity of participants overall. Further, States must ensure that the consequences of positive tests are not imposed differently based on the race or ethnicity of the participant.
- Employees of a State welfare office may not reject white applicants for food stamp assistance because they assume that only minority applicants have large families to provide for.

Programs **may not provide different benefits** to persons on the basis of their race, color, national origin, disability, or age, or on the basis of sex in education programs.

Examples:

- Employees must provide complete information to all persons who ask questions about the type of benefits, including job training assistance, placement, and other services, and not fail or refuse to provide the same, complete information on opportunities to persons who are or appear to be Asian.
- A county employee may not reject applicants for job training programs because they are or appear to be Hispanic.
- In order to provide equal access to services, an employment referral service in a large metropolitan area with a significant number of Spanish speaking welfare participants and applicants might have bilingual staff in positions that require frequent contact with participants or readily available interpretation services to serve such participants.

The information is a sample of the **Technical Assistance for Caseworkers on Civil Rights Laws and Welfare Reform program administered by the Office of Civil Rights of The United States Dept.of Health and Human Services.**

Within these provisions, all of the apparent violations that have been isolated by studies like Prof. Gooden's are listed as illegal. The problem is that many of these forbidden government behaviors are difficult to document and prove. Further, the needed research by academics like Prof. Gooden offer convincing but not sufficiently verifiable proof of discrimination.

Legal remedies

Much of the foregoing data sought to document comparative disparities between the performances of races in welfare programs in order to prove discrimination. It has been difficult to discern documentable trends from polls that gauge welfare recipient satisfaction and criteria.

Prof. Kenneth Neubeck suggests that and underlying racism in American society may in fact, be fueling race discrepancies in welfare programs. He believes that the manipulation of racism in the American political dialogue regarding welfare carries over into the disparate application of welfare services to blacks in particular. He argues that the racially charged environment surrounding discussions of welfare often have an impact on state and

federal policy. He cites surveys conducted by the Anti-Defamation League which showed that in the mid-1990's as many as 35% of people that identified themselves as being "white" believed that American blacks would prefer to receive welfare benefits over employment. He cites other surveys that show that though the percentage of welfare recipients was almost identical at between blacks and whites 36-37%, those who identified themselves as being white overwhelmingly thought that there were inordinately more blacks on welfare than whites. In addition, the actual percentage of white welfare recipients is lower. His underlying point is that if the overall population has racist and inaccurate views regarding the state of welfare, the system, made up of representative members of the society will manifest those views in its design and application of welfare policy. However, proving that racism exists in America, and that there are disparities in how races fare compared to one another during and after enrollment in welfare programs, does not make the case that discrimination is what accounts for these differences.

The Office Civil Rights plans to sponsor a number of conferences to look further into this issue. They will include training by advocates for race equality in welfare

programs. While I think these steps are helpful I believe more must be done. OCR has taken measurable steps toward eliminating unequal treatment of minorities in welfare but it too has largely skipped the step of cogently documenting the problem. When complaints are filed with OCR, the protocol is to initiate a preliminary investigation of the complaint and then to seek to remedy the situation without litigation or withholding of funds. Beyond that, individuals may file private lawsuits to enforce their rights under Title VI, Title IX, Section 504, or the Age Discrimination in Employment Act.

With systematic problems such as unequal availability of funds and services among races, the government must be proactive rather than wait for complaints to be filed. Individuals receiving unfair treatment will often be without the means to document and act upon their grievances. Furthermore, they will rarely be in positions to gauge the existence of a larger trend beyond their personal experiences.

In order to spot these problems, the government must enact "sampling initiatives" for states to regulate the application of their services and funding. Studies like Prof. Gooden's should be a model for how to conduct inquiries but the government has the obligation to go

further. Random testers should document whether blacks and whites are receiving the same financial support and advice as whites. Because these testers will be dummies for the purpose of investigation, the states can control all aspects of their financial and educational status to make them equal in a manner that would be difficult to replicate in a naturally formed sample group. I believe that as the cited studies suggest, that there are discrepancies in the application of welfare based on race, but I have not found conclusive data as to why they exist. I am also willing to believe that bias and disparate treatment may be integral to this reality but can not prove it in a way that would allow for the preparation of a legal argument to combat it.

The concerned minds in this debate have a similar quandary to the academics engaged in debates over affirmative action policy. They often struggle with questions regarding why blacks consistently test lower on standardized testing than other racial groups. Almost all recognize a systemic problem but don't know how to "capture the culprit". Fortunately, with regard to welfare application, I don't think the culprit will be as hard to capture. States should have guidelines for discretionary as well as non-discretionary applications of their services and funds. They must be held accountable if the same

opportunities are not afford similarly situated people. Rather than ask people how they felt about the service they received while on welfare, why not ask, for example, how many job notifications did you get? The total number of job notifications in a region can be counted. They can then be systematically assessed, with the help of testers, to discern whether discrepancies in distribution exist. If they do, the state and its agencies will be will be vulnerable to Equal Protection analysis of their policies and adjust them accordingly. Affirmative data will be more effective than continuing to reiterate what acceptable welfare policy is. While states do have rights to create their own policies regarding distribution, they do not have the right to intentionally discriminate based on race or willfully neglect to observe and remedy such discrimination. If one to assume that the discrimination that is presently believed to be occurring is a result of unspoken, subconscious, and/or institutional bias, many agencies will not be capable of self-correction without proof of their misdoings and pressure from the source of their funding. The federal government ought to compel full compliance with its mandates by making state distribution of funds conditional upon collection of data regarding the race of recipients and the services and funds allocated to

them accordingly. While the cost of implementing preemptive measures against discrimination may be significant, the government is obliged to ensure that receivers of welfare are treated equally without regard to race. Moreover, the cost of collecting such data may not be exorbitant. In order to process welfare receiver applicants and continue to provide service, the state welfare office must establish and maintain contact with recipients. During those contact sessions, the relevant data can be collected in procedural protocol mandated by the federal government and enforced by the states. Collection of this data will allow for more efficient isolation of racial discrepancies. It will also provide states with more viable opportunities to form initiatives to eliminate them.

While this may create additional procedure for states, they have an obligation not to preserve disparities that may be documentable with proper will and attention.