

A STUDY OF THE APPEAL PROCESS FOR SOCIAL
ASSISTANCE RECIPIENTS IN NEWFOUNDLAND

CENTRE FOR NEWFOUNDLAND STUDIES

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A STUDY OF THE APPEAL PROCESS FOR
SOCIAL ASSISTANCE RECIPIENTS IN-
NEWFOUNDLAND

BY



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Abstract

Appeal Boards serve as one mechanism for promoting administrative or social justice in public assistance. The Canada Assistance Plan (1966) required each of the provinces to establish welfare review tribunals and consequently each of the provinces and territories have Welfare Appeal Systems. The Canada Assistance Plan is the Federal Act that enables a province to receive reimbursement for one-half its annual expenditure on social welfare by entering into an agreement with the federal government.

This study was undertaken to specifically examine the Appeal process from the following perspectives: (1) the characteristics of the original decisions made by the social service employee, that prompted the appeal; (2) the characteristics of the clients that decided to appeal; (3) the characteristics of the appeals and (4) the outcome of the appeals.

The review of the literature revealed that appeal systems have developed as an integral part of income-maintenance programs as a means to ensure that individuals receive their appropriate entitlement. The criticism of local agency practices reached its peak in 1970 with the United States Supreme Court's decision in *Goldberg vs Kelly*, that AFDC recipients must be provided an opportunity to evidentiary hearings before termination of their benefits (O'Neil, cited in Hammer & Hartley, 1978). The relationship

of legal representation on the outcome of appeals has been examined and while the findings indicate the need for Social Workers to be informed about the appeal procedures, it also found that petitioners without legal counsel were able to use the procedural safeguard of evidence presentation (Hagan, 1983). However, in order to utilize appeal opportunities more effectively, citizens must know that they exist and know the laws and regulations that constrain administrative practice. The need for expertise in pursuing grievances was also evident.

This descriptive study involves an examination of appeals for the entire province of Newfoundland and Labrador for the period April 1, 1983, to March 31, 1986. A total of 293 appeals were examined. Case files for each of the 293 cases were examined and the relevant data was coded and transferred to a master list for review and analysis. Interviews were also conducted with the three members who comprise the Appeal Board.

The findings revealed that the Appeal Board and employees have considerable discretion within the Social Assistance Act and Regulations and even within policy in making its decisions. The use of advocates to assist with the Appeal did not seem to have a significant overall difference on the outcome of the Appeal, however, the use of family relatives and legal aid lawyers did seem to positively impact upon the outcome of the hearing.

According to the members of the Appeal Board, there are a number of barriers to the appeal process for Social Assistance recipients. They include not being aware of the appeal process; inability to attend hearings in central locations due to the distance from the hearings; clients not having the money to enable them to attend the hearings, and the perception on the part of some clients that the Appeal Board is not independent.

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CHAPTER 1

INTRODUCTION TO THE STUDY

Appeal Boards serve as one mechanism for promoting administrative justice in public assistance. The Canada Assistance Plan (1966) required each of the provinces to establish welfare review tribunals and consequently each of the provinces and territories have welfare appeal systems. The Canada Assistance Plan is the federal Act that enables a province to receive reimbursement for one-half its annual expenditure on social welfare by entering into an agreement with the federal government. Section 6(2) of the Act stipulates that each "will endure the provision by law, not later than one year from the effective date of this agreement, of a procedure for appeals from decisions of provincially approved agencies with respect to applications for assistance or the granting or providing of assistance by persons directly affected by such decisions" (C.A.P., ch. 45, 1966).

The welfare review and appeal systems that have been implemented in Canada have not replaced the informal review system that applicants or recipients of Social Assistance utilize, when dissatisfied with a decision affecting their entitlement to Social Assistance. There are several informal options available to the applicant or recipient:

- (1) the involvement of the employee's supervisor or senior official may be requested, for the purpose of seeking

modification of a decision; (2) the involvement of their M.H.A., clergyman, etc., may be requested. Such recourses may eliminate the need for the matter to be referred to a Regional Administrative Review Committee or Appeal Board.

The Provincial Ombudsman (Parliamentary Commissioner) is also utilized by applicants or recipients who are dissatisfied with a decision affecting their entitlement to Social Assistance. Table 1 shows the number of complaints to the Provincial Ombudsman by Social Assistance clients during 1983-85.

TABLE 1

Complaints to the provincial ombudsman by social assistance clients during 1983-1985

CALENDAR YEAR	NUMBER OF COMPLAINTS
1983	21
1984	27
1985	78
Total	126

The jurisdiction of the Ombudsman is specifically restricted in two areas, Section 15(1) of The Parliamentary Commissioner (Ombudsman) Act identifies these two areas:

✓ "15(1) Nothing in this Act authorizes the commissioner to investigate

- (a) any decision, recommendation, act or omission in respect of which there is under any Act a right of appeal or

objection or a right to apply for a review on the merits of the case to any Court or to any tribunal constituted by or under any Act, until after that right of appeal or objection or application has been exercised in the particular case or until after the time prescribed for the exercise of that right has expired; or

- (b) any decision, recommendation, act or omission of any person acting as a solicitor for the Crown or acting as counsel for the Crown in relation to any proceedings."

Applicants or recipients of Social Assistance in this province who wish to have a decision formally reviewed are required initially to request a review by a Regional Administrative Review Committee, unless the decision was made by the Regional Director or his/her designate. In cases where the decision being reviewed was made by the Regional Director or his/her designate, applicants or recipients can appeal directly to the province's Social Assistance Appeal Board.

Each of the five Social Services Regions (See Appendix A) in the province, has a Regional Administrative Review Committee. The membership of the Committee is comprised of a Regional Director as Chairperson and normally the two Assistant Regional Directors as the other two members. The law provides for a maximum of three members on the Regional Administrative Review Committee. The Committee is an internal Committee of the Department. The law enables applicants or recipients to by-pass this Committee, if the Regional Director or his/her designate made the decision that is the subject of appeal. The Regional Administrative Review Committee decisions and findings may not be appealed to or

reviewed by a Court of Law.

The grounds that may be used as the basis for a review are stated as follows:

"If any person affected by a finding or decision of an officer of the Department, (feels aggrieved by a decision or determination of the officer of the Department in respect of the granting, refusal, suspension, discontinuance, reduction, resumption or amount of social assistance, such person may, subject to the regulations, request, in writing, either personally or through another person acting on his behalf with his written consent, an administrative review by a Review Committee of such decision or determination." (Social Assistance Act, 1977, Section 13(1).)

Each of the Regional Administrative Review Committee's are required under the law to communicate its findings or decision, in writing, to the person who requested the review. The written communication must include the following information (Social Assistance Act, 1977, Section 14(2)):

- (a) Clearly the reasons for the finding or decision;
- (b) a notice specifying the right of appeal to the Appeal Board;
- (c) the time within which such right of appeal may be exercised;
- (d) the procedure of such appeal;
- (e) the manner of conducting such appeal.

The Social Assistance Appeal Board is an independent tribunal comprised of three members who are not employees of the Government of the province or of any board, commission, corporation or any other body that is an agency of Her Majesty. The members are appointed by the Lieutenant-Governor in Council. One member of the Board shall have been a recipient of Social Assistance. (Social Assistance Act, 1977, Section 15(1).) It is not bound by Departmental

policies and interpretations and it may confirm, vary or set aside a decision and give directions consistent with the Act respecting Social Assistance.

The Board must "hear" any appeal properly submitted to it (Section 16(2)(b)) and the appellant is entitled to appear before the Board "for the purposes of presenting his/her case and producing evidence" (Section 16(3)). The appellant is entitled to be represented by counsel or an agent and may accompany and appear with counsel or the agent before the board (Section 16(3)).

The Board can only proceed to hear an appeal in the absence of the appellant in clearly specified circumstances. The appellant must have failed to appear before the Board without having given prior notice to the Board of his or her desire to appear and the circumstances preventing attendance at the scheduled hearing. In such cases, the Board is expressly empowered to "proceed in such absence to examine into the matter of the appeal and to hear the witnesses, if any; and adjudicate thereon" (Section 16(4)).

The Board has the powers which are or may be conferred on a Commissioner appointed under The Public Enquiries Act (Section 16(5)). These powers include the power to summon witnesses, to require them to give evidence orally or in writing upon oath or affirmation, and to produce documents. The Board can also commission reports, although this is not normally done.

The Board's decisions are subject to appeal on questions of law or mixed fact to a judge of the Trial Division of the Supreme Court of Newfoundland (Section 16 (8)).

The Social Assistance Act empowers Cabinet to make regulations prescribing the procedure for administrative reviews and appeals and the forms to be used (Sections 28 (1) (1) and 28 (1) (e)), however, no such regulations have been made. The absence of such regulations does not in any way impair the legal power of the Social Assistance Appeal Board to fulfill its mandate. Provision has been made in the existing Regulations for payment to an appellant who appears before the Board for lost wages, travelling and other expenses, and fees and expenses of the appellants' representative and witnesses (Regulation 30 (1)).

Mr. Hudson Davis, former Chairman, Social Assistance Appeal Board, utilized the following minimum requirements of natural justice following an analysis of the legislation concerning The Social Assistance Appeal Board, by legal counsel:

- (1) Appellants are entitled to know the case they have to meet and, if the Board intends to have reference to written Departmental reports, which are just a form of evidence and have no special status, then it ought to ensure that appellants are made aware of pertinent allegations of fact which could bear on the outcome of the appeal. Failure to do so will render meaningless an appellant's statutory right to present his or her case and produce evidence. A Board decision made in the absence of reasonable disclosure or made on the basis of undisclosed allegations would be liable to be overturned on appeal to the Trial Division.

- (2) This does not mean that a confidential report or its contents needs to be disclosed. However, if material, pertinent allegations which, if undenied or unresolved, would lead to the rejection of the appeal, should be made known to the appellant to an extent sufficient to enable him or her to respond to them and have a fair opportunity to dispute or explain them.
- (3) In an extreme case, it may not be possible to provide disclosure even to the extent indicated in the preceding paragraph. If so, then the Board could take the appellant's counsel into its confidence and make the relevant disclosure to him or her. If this cannot be done, then every effort must be made by the Board to avoid making the decision on the basis of the undisclosed allegations.
- (4) The disclosure contemplated in the preceding paragraphs should be made in advance of the hearing so as to enable the appellant to prepare his or her case. Failure to give such advance notice will only lead to requests for adjournment, and, where the appellant is truly surprised by the allegations, it will be hard to justify refusal.
- (5) The appellant, consistent with his or her right to know the case to be met, is entitled to be present throughout the hearing. The Board ought not to countenance any request from a witness made in advance of testimony, that the appellant be excluded. Any such request should be limited, to the specific circumstances of a particular question or line of questioning. Only then can the Board properly assess the harm to third parties, the social assistance programme or even the appellant which would or could be caused if the question or questions were answered in the appellant's presence. Only in extreme circumstances should such a request be acceded to and then only after exploring the possibility of having the evidence given in the presence of counsel alone. A summary of the evidence should be given to the appellant upon his or her return to the hearing.
- (6) As to cross-examination, the Board is master of its proceedings within the framework of natural justice. Cross-examination is not an essential component of natural justice. What is essential

is that the appellant be given the opportunity to meet the case against him or her. In the present context, that entitlement is met by allowing the appellant full opportunity, consistent always with the principle of relevance, to reply to allegations, give explanations, make representations and present evidence. The explicit statutory right to present the case and produce evidence must never be impaired materially.

- (7) The Board is entitled, therefore, to reject cross-examination, which is the hallmark of the adversary system of dispute resolution. But the rejection cannot be arbitrary and inflexible. It must be examined on the basis of the Board's fair-minded assessment of whether cross-examination will assist the Board to a conclusion. If it will not, the Board is entitled to refuse the request. Otherwise, the Board should accede. It may be appropriate in certain circumstances to allow the appellant or counsel to direct questions to a witness through the Board Chairman.
- (8) The Board may feel that it will be assisted by cross-examination in a difficult case of credibility assessment. On the other hand, it may not see the value of cross-examining a Department official on Government policy. Consistent with the foregoing, decisions as to cross-examination should be made after the witness has presented his or her evidence and taking into account the reasons for the request and the possible benefits to the decision-making process. To do any less than this would run the risk of denying natural justice to the appellant with consequent likelihood of reversal in court.

The grounds for appeal in Canada are generally the same except that in Manitoba, Ontario and New Brunswick, appeal boards will hear appeals on the ground of being dissatisfied with the insufficiency of Social Assistance. The province of Saskatchewan has even broader grounds for appeal in that appeals related to dissatisfaction with policy, treatment by staff, or delays in decision-making, are accepted. (Health

and Welfare Canada, 1982). The grounds for appeal in Newfoundland and Labrador are the same as the grounds for a review.

The Social Assistance Act, 1977, and The Social Assistance Regulations, 1984, constitute the law under which Social Assistance is administered in the province. In addition, the Department has developed a manual of policies and procedures that is utilized by the field staff in delivering the Social Assistance program.

While Social Assistance policies cannot exceed the parameters of the Social Assistance Act and the Social Assistance Regulations, the policies may limit or be more restrictive than the Social Assistance Act and Social Assistance Regulations. For example, the Social Assistance Regulations does not specify the building materials that may or may not be provided to a recipient yet the Social Assistance policy concerning building materials specifies the material that may and may not be provided. Thus the scope of the Social Assistance Regulations tends to be broader than the scope of the Department's policies. The Social Assistance Appeal Board is obligated to render its decisions within the parameters of the Social Assistance Act and Regulations. Therefore, the Board does not have to limit its decision-making authority to the Department's policies, unless, of course, the policies permit the maximum allowable Social Assistance under the Act and Regulations.

STATEMENT OF PROBLEM

This study of the appeal process for applicants and recipients of Social Assistance describes and analyzes (1) the characteristics of the original decision; (2) the characteristics of the clients; (3) the characteristics of the appeals and (4) the outcome of the appeals. (See Appendix B). Appeal Boards have been established in each of the provinces and territories, however, research has not been conducted to examine the appeal process as a method of ensuring that individuals receive their appropriate entitlement. This study will, therefore, contribute to an improved understanding of the appeal process as a means of ensuring social justice in public assistance and, in particular, the manner in which the appeal board exercised its authority during a three year period.

PURPOSE OF STUDY

The study is important in that it has implications in the following areas: (1) If, for example, Social Assistance enabling single parents to acquire rental accommodations is the cause of a significant number of appeals, it may point to the need for the policy or interpretation of the policy to be improved. On the other hand, if a significant number of appeals in one region of the province relates to a particular aspect of the Social Assistance program, e.g. refusal to grant Social Assistance to single able-bodied individuals, it may point to a need for the policy to be

changed to ensure consistency throughout the province or action to be taken to improve the interpretation of the policy guidelines on the matter; (2) the need for staff training in the area of appeals as an effective and legitimate form of advocacy may be identified, so as to enable clients to more effectively use the appeal system. The need for training may also be required for members of the Appeal Board; (3) the need to formalize the process through which clients are informed of their rights and of the procedure to appeal may be identified. The provinces of British Columbia, Prince Edward Island and the Yukon provide applicants and recipients with written information at the time a decision is made. The information specifies their right to appeal and can serve as verification that the applicant or recipient was made aware of their right to appeal a decision of the Department; (4) the data may point to the need to review the existing legislation relating to reviews and appeals in the province; (5) the need for further study in the area may be identified i.e. a prospective study of appeals.

Appeal Boards As a Quasi-Judicial Body

Appeal boards are quasi-judicial bodies and come within the ambit of administrative law. "Administrative Law deals with the legal limitations on the actions of governmental officials, and on the remedies which are available to anyone

affected by a transgression of these limits. The phrase "quasi-judicial" refers to discretionary powers which are essentially judicial in nature, but which are exercised by officials other than judges in their courtrooms." (Jones and Villars, 1985).

Appeal boards are expected to adhere to the principles of "natural justice" which "connotes the requirement that ... when reaching a decision, they must do so with procedural fairness. ...Loosely, this meant that the new decision-makers were also required to proceed fairly and secondly, they were required to stay within their limited respective areas of jurisdiction. The new label "quasi-judicial" appeared in an effort to distinguish between the judicial decision-making of judges on the one hand, and on the other hand, the decision-making of members of administrative tribunals who were not judicial officers, but who were nevertheless required to adopt at least some of the procedures reminiscent of those used in the courtroom...Natural Justice was comprised of two main sub-rules: audi alteram partem - that a person must know the case being made against him and be given an opportunity to answer it; and nemo iudex in sua causa debet esse - the rule against bias." (Jones and Villars, 1985).

Lord Haldane relied on the Rice decision "to hold that an administrative tribunal had a duty to act in good faith and to listen fairly to both sides, but not to treat the question as if it were a trial. There would be no need to

examine under oath, nor even to examine witnesses at all. Any other procedure could be utilized which would obtain the information required, as long as the parties had an opportunity to know and to contradict anything which might be prejudicial to their case." (Jones & Villars, 1985).

The general principles inherent in the rules of natural justice listed by Addy J. (Cited in Jones & Villars, 1985) are as follows:

(a) The tribunal is not required to conform to any particular procedure, nor to abide by rules of evidence generally applicable to judicial proceedings, except where the empowering statute requires otherwise. "For example, the Alberta Administrative Procedures Act governs many aspects of the procedure used by the ten bodies to which it has been applied. The same approach was adopted subsequently in the Ontario Statutory Powers Procedures Act which is not only more comprehensive in dealing with every aspect of procedure, but also applied to considerably more statutory delegates. Both of these models follow the lead of the American Federal Administrative Procedures Act. Just as ad hoc statutory provisions as to procedure do not totally supplant the common law rule of fairness and audi alteram partem, it is probably true that those uniform procedure Acts provide minimum requirements for procedural fairness, leaving the courts with the power to impose the additional procedural requirements of the residual common law if the ends of fairness so require."

(b) There is an overall duty to act fairly in administrative matters, that is, the inquiry must be carried out in a fair manner and with due regard for natural justice;

(c) The duty to act fairly requires that the person who is being examined and who may be subject to some penalty:

(i) be aware of what the allegations are;

(ii) be aware of the evidence and the nature of the evidence against him;

- (iii) be afforded a reasonable opportunity to respond to the evidence and to give his version of the matter;
- (iv) be afforded the opportunity of cross-examining witnesses or questioning any witness where evidence is being given orally in order to achieve points (i), (ii) and (iii). However, there may be exceptional circumstances which would render such a hearing practically impossible or very difficult to conduct, such as deliberately obstructive conduct on the part of the party concerned;

(d) The hearing is to be conducted in an inquisitorial, not adversarial, fashion but there is no duty on the tribunal to explore every conceivable defence or to suggest possible defences;

(e) Nevertheless, the tribunal must conduct a full and fair inquiry which may oblige it to ask questions of the person concerned or of the witnesses, the answers to which may prove exculpatory insofar as the person is concerned. This is the way in which the tribunal examines both sides of the question;

(f) There is no general right to counsel. Whether counsel may represent the person is in the discretion of the tribunal, although matters may be so complicated legally that to act fairly may require the presence of counsel;

(g) The person must be mentally and physically capable of understanding the proceedings and the nature of the accusations and generally of presenting his case and replying to the evidence against him. The tribunal must satisfy itself on this point before embarking on the hearing." (Jones & Villars, 1985).

The matter of an appeal to the courts of law from the decision of a statutory appeal board must be specifically created by legislation. In 1965, the Special Committee on Boards and Tribunals appointed by the Legislative Assembly of Alberta was asked to consider whether there should be a greater provision for appeals to the courts from the decisions of such boards and tribunals. The Committee made the

following observations:

It has already been noted in this report that a widespread and nearly unanimous desire for a right of appeal to the courts was expressed to the Committee in submissions which dealt with particular tribunals... It is said that if the recommendations of the Committee respecting minimum uniform standards of procedures are implemented, the occasions would be diminished on which an appeal would be required to obtain justice: this may be so. Nevertheless, there is embedded in the democratic principles of the administration of justice a right to appeal by a person who considers himself aggrieved, and the Committee is of the view that this principle should be more fully recognized in administrative law than it is at present. It would give citizens who are affected by the decisions of a tribunal a right comparable to the one they have traditionally had in respect of judgements of the Courts. (Jones & Villars, 1985).

As indicated earlier, the Charter of Rights and Freedoms will undoubtedly have a significant impact on administrative law, particularly in the area of tribunals. "One can readily state that the Charter will be used extensively in Administrative Law as a ground for attacking the validity of all forms of government actions, whether legislative, judicial or merely administrative in nature. In particular, Section 7 of the Charter will undoubtedly be used to extend the principles of natural (or fundamental) justice to any law or governmental action which deprives a person of life, liberty or security of the person." (Jones & Villars, 1985).

In summary, appeal boards have been established in each of the provinces and territories in Canada as a means of ensuring social justice in income-maintenance programs. These appeal boards are quasi-judicial bodies and are expected to adhere to the principles of natural justice. The Social

Assistance Act, 1977, stipulates the minimum requirements of natural justice that the Appeal Board in Newfoundland must meet. Regulations prescribing procedures and rules of evidence for the Appeal Board have not been developed.

The absence of such regulations does not in any way impair the legal power of the Appeal Board to fulfill its mandate. The use of the Charter of Rights and Freedoms to attack the validity of the decisions of Appeal Boards may increase the need for regulations that would specify the procedures and rules of evidence for the Appeal Board.

CHAPTER 2

REVIEW OF LITERATURE

Appeal systems have developed as an integral part of income-maintenance programs as a means to ensure that individuals receive their appropriate entitlement. The rules used to determine who will be eligible to receive income maintenance benefits may be predicated upon a variety of specific criteria. "Attempts to develop general principles for placing eligibility criteria within an analytic framework usually begin with the distinction between universalism and selectivity. Universalism denotes the idea of benefits made available to an entire population as a social right. Selectivity denotes the idea of benefits made available on the basis of individual need, determined through a means test." (Gilbert & Specht, 1974). The debate between those who favour universal and those who support selective allocation principles in social welfare policy is expressed along the following lines:

In weighing the relative merits of these allocation principles, universalists emphasize the values of social effectiveness as manifest in the preservation of dignity and social unity that result when people are not divided into clear-cut groups of givers and receivers. In their view, all claims to benefits are equal. Selectivists, on the other hand, tend to stress the value of cost-effectiveness as manifest in the savings to the community that accrue when social provisions are made available only to those who could otherwise not afford them.

But neither side is quite satisfied to let the debate rest there. Each also lays claim to at least

a share in the values that support the other side. Universalists claim cost-effectiveness as a by-product of their allocation principle, because preventive treatment may result in certain cases when access to social provisions is not deterred by investigation of an individual's means and the accompanying stigma of eligibility so defined. It is in the long-run cost accounting of "an ounce of prevention to a pound of cure" that universalists infer an economic saving to the larger community. As a bonus, they suggest that universal allocations are usually less expensive to administer than selective allocations because they do not require constant screening, checkups, and benefit adjustments to ensure that recipients remain eligible and that they receive the proper level of assistance. The selectivists' rejoinder is to claim social effectiveness. That is, if the objective is to move toward a more egalitarian society, offering benefits only to the poor reduces inequalities more than universal allocations for which everyone in a designated population is eligible. (Gilbert & Specht, 1974).

Social Assistance is a selective program, for which the principal criterion for all welfare programs throughout Canada is that applicants must be in need of social assistance. This need is determined on the basis of a test to ensure that individuals have insufficient means to support themselves or their dependents. In the Fall 1986 publication of Social Perspectives, Ms. Penelope Rowe, Executive Director, Community Services Council, St. John's, elaborated on the problems that occur when eligibility for Social Assistance is determined on an individual basis by Social Workers,

The current welfare system which is based on a series of complex and complicated rules, has weaknesses which undermine its many good features... the most serious is the lack of clear, objective, consumable information available to the public about rules and policies which govern the administration and allocation of social assistance funds. This engenders unevenness in the manner in which front line workers can interpret the myriad

rules, and may lead to discrepancies in discretionary decisions because of the authority vested in administrators. These problems result in inconsistencies (whether intentional or unintentional) which can cause inequitable treatment of welfare recipients. (Social Perspectives, Fall 1986, Vol 4. No. 3).

The appeal system enables individuals who are dissatisfied with decisions which affect them to have recourse to an authority other than the initial administrative one, thereby making it possible to reverse certain decisions rendered in error. (Harvey, 1981).

The right to appeal helps to promote and safeguard statutory social rights. T. H. Marshall noted that the historical evolutions of citizenship has involved three kinds of rights: (1) civil - the right to freedom of speech, thought and faith and the right to own property and conclude contracts; (2) political - the right to participate in the exercise of political power; and (3) social - the right to an acceptable level of economic welfare and security and to live the life of a civilized being according to prevailing social standards. (Marshall, in Hansenfield, 1985). Through their control over welfare programs and services, welfare state bureaucracies are specifically entrusted with the obligation to meet and respond to citizens' social rights. These bureaucracies wield considerable power by virtue of the resources that they control, and, consequently, decisions made by their officials about the legitimacy of claims and

the provision of services greatly determine how these rights are exercised. (Hansfield, 1985, pp 622-623). Research pertinent to this study has not been conducted in Canada. The appeal system in the United States has been the subject of considerable study; however, due to the adversarial nature of the American Appeal systems, much of the research is not relevant to this study. The review of the literature will, however, provide an overview of the research that relates to this study.

The criticism of agency practices reached its peak in 1970 with the United States Supreme Court's decision in *Goldberg vs Kelly*, that AFDC recipients must be provided an opportunity to evidentiary hearings before termination of their benefits. O'Neil (cited in Hammer & Hartley, 1978) feels adversary hearings work because of the following:

- (1) they are the best way to promote accuracy because from the battle between the client and the agency the truth should be determinable;
- (2) adversary hearings should help defer frivolous claims on unjust actions, and, therefore, with the decision-maker likely to reach accurate results, O'Neil predicts additional behavioural benefits; and
- (3) O'Neil argues that adversary hearings have intrinsic psychological value.

By guaranteeing accuracy, they give both the client and society at large, the feeling that all interest have been treated fairly.

A study in the District of Columbia found that the requirements of due process* were generally met (Burrus and Fessler, 1967). A study by Dwyer (1968), however, in Missouri found the need for the following:

- (1) notice of right to appeal should be required to be given to the applicant;
- (2) written notice should be required to be given to the applicant of his right to legal counsel; and
- (3) the agency should be required to advise the applicant of the availability of free legal services.

The relationship of legal representation on the outcome of appeals has been examined and while the findings indicate the need for social workers to be informed about the appeal procedures, it also found that petitioners without legal counsel were able to use the procedural safeguard of evidence presentation (Hagan, 1983). Indeed, Hagan (1983) concludes that the relationship between hearing outcome and the retention of counsel, does not appear to be a particularly noteworthy one in terms of the predictive strength of the relationship. A major study in Wisconsin of AFDC welfare hearings found that petitioners with attorney representation were only slightly more successful (Hammer & Hartley, 1978).

* The components of due process are: retention of counsel, confrontation and cross examination of adverse witnesses; presentation of evidence, including witnesses; presentation of argument, timely and adequate notice and the extent to which applicants or recipients are informed of their right to a fair hearing (Hagan, 1983).

Cooper's (1980) findings also indicated that except in situations involving the applications of a legal standard to the particular fact, those with attorney representation were more successful than those without attorney representation. The small differences in the outcomes may indicate an inability to employ the argumentative and analytical expertise of the profession in the context of welfare hearings (Hammer & Hartley, 1978).

Lipsky (1984) found during a five year study in Boston that the annual appeal rate was approximately one percent of the 27,500 AFDC cases. He contends that to utilize appeal opportunities more effectively, citizens must know that they exist and know the laws and regulations that constrain administrative practice. The need for expertise in pursuing grievances was also evident. Such a need may have implications for social work education and in-service training. At the Learned Societies Conference in Vancouver (1983), D. Habets raised two issues during a session on "Social Workers and Welfare Appeal Systems". "What steps should be taken to augment Social Workers' professional awareness in their dealings with welfare appeal systems? and, secondly how should an adequate information basis on Welfare Appeal Systems be provided to students in schools of Social Work?"

In Newfoundland and Labrador, Social Workers and Social Assistance Workers are expected to verbally inform clients

of their right to appeal and the procedure involved, however, the fact that only .004% of the cases that received Social Assistance appealed during the 1984-85 fiscal year, may indicate that many applicants and recipients in this province are not aware of their right to appeal and the procedure they must follow to appeal a decision.

The major study of AFDC welfare hearings in Wisconsin for the year 1965 to 1976 showed, however, that while the difficulty in the hearings following the Goldberg requirements is that unassisted clients are poor adversaries, the data seems to negate the fears that AFDC clients can never become effective adversaries. With knowledgeable representation or with an explanation of pertinent facts and policies they seem to do a credible job of prosecuting their claims (Hammer and Hartley, 1978).

The decision-making process of appeal boards was examined by Mossman (1971) in a study of appeals in Australia. The tribunals in Sydney and Melbourne had a legal expert as Chairperson, while in Perth and Brisbane the departmental member assumed that role. A comparison of the outcome of appeals revealed that the tribunals in Sydney and Melbourne adopted a function of criticizing departmental policy in the course of their decisions and decided appeals on the basis of the legislation, using departmental instructions as guidance only. By contrast, the Perth tribunal openly eschewed a policy-making function and

followed the instructions closely in making its decision.

In summary, the review of the literature revealed that the criticism of agency practices reached its peak in 1970 with the United States Supreme Court's decision in *Goldberg vs Kelly*, that AFDC recipients must be provided an opportunity to evidentiary hearings before termination of their benefits (O'Neill, cited in Hammer & Hartley, 1978). The relationship of legal representation on the outcome of appeals has been examined and while the findings indicate the need for Social Workers to be informed about the appeal procedures, it also found that petitioners without legal counsel were able to use the procedural safeguard of evidence presentation (Hagan, 1983). However, in order to utilize appeal opportunities more effectively, citizen's must know that they exist and know the laws and regulations that constrain administrative practice. The need for expertise in pursuing grievances was also evident.

CHAPTER 3

METHODOLOGYThe Review Process in Newfoundland and Labrador

This descriptive study involves an examination of appeals for the province of Newfoundland and Labrador for the period beginning April 1, 1983 to March 31, 1986. The Department of Social Services has divided the province, for administrative purposes, into five geographical regions. These five regions are further subdivided into districts. At the moment there are fifty-three districts in the Province (See Appendix C). The district office is the centre for the delivery of all of the Department's programs, whereas the five regional offices are responsible for planning, organizing, developing, co-ordinating, evaluating and directing the Social Services activities within the entire region. The Social Assistance program is a major program of the Department of Social Services. The expenditure for this program during the fiscal year 1985-86 was \$90,044,000.00. As of the end of March, 1986, there were 20,591 recipients of Social Assistance in the province.

Review Committees are the initial step in the formal process of having a decision reviewed. The client at this stage has been notified of the decision of the Social Worker, Social Assistance Worker, District Manager or the Social Worker Supervisor. If the client is dissatisfied

with the decision made at the District Office level (District Manager, Social Worker Supervisor, Social Worker or Social Assistance Worker), he/she can write to the Regional Administrative Review Committee to have the decision reviewed. The client has 60 days from the date of notification of the decision of the Social Worker to request a review by the Regional Administrative Review Committee.

There are three problems involved with studying the decision-making at the Regional Administrative Review Committee level: (1) A Regional Director upon reviewing the letter for a review may readily detect that the decision made at the District Office level was inappropriate and may advise the District Office to modify or revise the decision. Consequently, there is potential for the screening-out of reviews at this stage. (2) When a review is received by the Secretary of the Regional Administrative Review Committee, a report concerning the situation is normally requested from the District Office that has responsibility for the delivery of Social Assistance in the community in which the client resides. During the process of collecting information for the report, knowledge of the client's situation may come to light that could cause the District Office to modify or reverse the decision. Thus there is also potential for the review to be screened-out at this level as well. (3) The Regional Administrative Review Committees are internal Committees comprised of Departmental staff and consequently

the Committee in reviewing decisions made concerning a client's situation, is also placed in the difficult role of reviewing the performance of their professional colleagues in the administration and delivery of Social Assistance. Thus the same degree of control and objective decision-making may not exist at this level compared to the Appeal Board.

All of the appeals during the period April 1, 1983 to March 31, 1986 (N=293), were examined for two reasons:

(1) the membership of the Appeal Board remained the same during this three year period; and (2) 293 appeals were considered a manageable number of appeals for this type of study. Archival data from case files was utilized to obtain the information. (See Appendix D for the Case File Data Sheet that was utilized to record the information collected from the 293 case files.) Information pertaining to the following was collected: geographical origin of the appeal, age and sex of the appellants, marital status, employment status and reason for assistance at the time of appeal, whether the law or policy enabled the employee to approve the request, whether the client attended the hearing, decision of the Appeal Board and whether the Appeal Board based its decision on law or policy guidelines (See Appendix E for the coding that was utilized). Interviews were also conducted with the members of the Appeal Board to ascertain their perspective of the role and constraints of the Appeal Board.

CHAPTER 4

FINDINGS

The study, as noted previously, entailed a review of 293 case files. The 293 cases represent the total number of appeals to the Social Assistance Appeal Board for the three years (fiscal) beginning April 1, 1983, and ending March 31, 1986. The breakdown of the appeals for each of these three years may be seen from the following table.

TABLE 2
Appeal by year

FISCAL YEAR	FREQUENCY	PERCENT
April 1, 1983 - March 31, 1984	106	36.2
April 1, 1984 - March 31, 1985	94	32.1
April 1, 1985 - March 31, 1986	93	31.7
Total	293	100.0

The mean age of clients who appealed to the Social Assistance Appeal Board was 38 years. A breakdown of the age of the appellants may be seen from Table 3.

TABLE 3
Appellants by age

AGE	FREQUENCY	PERCENT
15 - 20 years	26	8.9
21 - 30 years	94	32.1
31 - 40 years	56	19.1
41 - 50 years	41	14.0
51 - 60 years	50	17.1
61 - 70 years	19	6.5
71 - 80 years	7	2.4
Total	293	100.0

Male appellants comprised 57.3 percent (N=168) of the appellants, whereas female appellants comprised 42.7 percent (N=125) of the appellants.

Table 4 reflects the appellants by sex for the regions. There were no appeals from the Labrador region.

TABLE 4

Appellants by sex for the regions

REGION	FEMALE	MALE	TOTAL
Western	50	51	101
Central	45	65	110
Eastern	14	29	43
St. John's	16	23	39
Labrador	-	-	-

Most of the appellants had dependents, in terms of a dependent spouse and/or dependent children. Appellants with dependents comprised 64.2 percent (N=188) of the appellants, compared with 35.8 percent (N=105) with no dependents.

The marital status of the appellants is shown in Table 5.

TABLE 5
Appellants by marital status

MARITAL STATUS	FREQUENCY	PERCENT
Married	109	37.2
Widow/Widower	32	10.9
Spinster	16	5.5
Bachelor	59	20.1
Separated	19	6.4
Divorced	10	3.4
Unmarried Mother	24	8.2
Common Law	24	8.2
Total	293	100.0

While a significant number of the appellants are married (N=109), it is evident that most of the appellants are single (N=160). The figure of 160 was obtained by adding the numbers for widow/widower, separated, unmarried mother, spinster and bachelor. Widows comprised 10.2 percent (N=30) of the appellants, whereas only 0.7 percent (N=2) were widowers. The next largest category was common-law, with a total of 24.

Table 6 indicates the marital status of the appellants by region.

TABLE 6

Marital status of appellants by region

MARITAL STATUS	REGION				ROW TOTAL
	WESTERN	CENTRAL	EASTERN	ST. JOHN'S	
Married	31	41	21	16	109
Widow/Widower	11	7	7	7	32
Spinster	5	11	-	-	16
Bachelor	17	27	7	8	59
Separated	12	3	2	2	19
Divorced	3	4	-	3	10
Unmarried Mother	7	12	3	2	24
Common Law	15	5	3	1	24
Total	101	110	43	39	293
Percent	34.5	37.5	14.7	13.3	

According to the above table, 20.1 percent (N=59) of the appellants were single, able-bodied males. It is interesting to note that 74.6 percent (N=44) of them resided in the Central (N=27) and Western (N=17) Regions. Of the 18 appellants who were separated, 11 resided in the Western Region

and of the 24 unmarried mothers, 19 of them resided in the Central (N=12) and Western (N=7) Regions. A total of 15 of the 24 appellants whose marital status was common law also resided in the Western Region.

The reasons why the appellants were receiving Social Assistance at the time of the appeal to the Social Assistance Appeal Board may be seen in Table 7.

TABLE 7

Appellants by reason for social assistance

REASON FOR SOCIAL ASSISTANCE OR EMPLOYMENT STATUS	FREQUENCY	PERCENT
Unemployed	130	44.4
Employed Full Time	5	1.7
Mental Retardation	2	.7
Physical Illness	56	19.4
Psychological/Social Disability	3	1.0
Spouse Deserted, Deceased Separated or Divorced	61	20.8
Unmarried Mother	25	8.5
Age - Female over 50	7	2.4
Age - Male over 65	4	1.4
Total	293	100.0

The housing status of the appellants is shown in Table 8.

TABLE 8
Appellants by housing status

HOUSING STATUS	FREQUENCY	PERCENT
Own Home	145	49.5
Rented House	23	7.8
Rented Apartment	22	7.5
Room & Board with Relatives	100	34.1
Room & Board with Non-Relatives	2	.7
Total	293	100.0

The geographical location of the appellants was obtained for four categories - community, welfare district, region and electoral district.

The appellants were from various communities in the province, with the exception of Labrador. There were no appeals from the Labrador Region during the period April 1, 1983 - March 31, 1986. Research has not been conducted to determine why there are no appeals from Labrador. The reasons may be related to the following factors: (1) The region has tended to attract managers and social workers who are recent university graduates and these employees may be using the full scope of the Social Assistance policies and legislation;

(2) The Native (Innu and Inuit), as well as Non-Native people, may not be aware of the appeal procedure and/or feel comfortable in using the appeal process, even if they are aware of their right to appeal; (3) If clients are dissatisfied with a decision of their Social Worker or Social Assistance Worker, there may be a greater tendency to have the problem resolved informally, by utilizing the Band Council, clergy, M.H.A., etc., as advocates, instead of using the formal appeal process.

The 293 appeals came from 174 communities throughout the province. The number of appeals from the various communities ranged from one to eight, with 160 communities having from one to three appeals.

The appellants came from 44 of the 53 welfare districts in the province. With the exception of the following 11 welfare districts which had ten or more appeals, the remaining 33 districts had from one to nine appeals.

TABLE 9

Welfare districts with ten or more appeals

WELFARE DISTRICT	FREQUENCY	PERCENT
Lewisporte	22	7.5
Bonne Bay	20	6.8
Piccadilly	14	4.8
Baie Verte	13	4.4
Grand Falls	13	4.4
Bell Island	12	4.1
St. John's	12	4.1
Channel	12	4.1
Corner Brook	12	4.1
Deer Lake	11	3.8
Gambo	10	3.4
Total	151	51.5

The appellants came from 43 of the provinces 52 electoral districts. With the exception of the following 10 electoral districts which had 9 or more appeals, the remaining 42 electoral districts had from one to eight appeals. The geographical boundaries of electoral districts and welfare districts are different even though some electoral districts and welfare districts have the same title i.e. Lewisporte. The differentiation in findings between welfare districts and electoral districts is presented in Tables 9 and 10.

TABLE 10

Electoral districts with nine or more appeals

ELECTORAL DISTRICT	FREQUENCY	PERCENT
Lewisporte	23	7.8
St. Barbe	23	7.8
Port au Port	16	5.5
Baie Verte - White Bay	16	5.5
Harbour Main - Bell Island	16	5.5
Bonavista North	11	3.8
Burgeo - Bay d'Espoir	11	3.8
Humber Valley	11	3.8
St. George's	9	3.1
Terra Nova	9	3.1
Total	145	49.7

As the above table indicates, almost 50 percent of the 293 appeals came from 19.2 percent (N=10) of the provinces 52 electoral districts.

As indicated previously, the Department of Social Services has divided the province, for administrative purposes, into five geographical regions. Table 11 shows the breakdown of appeals in terms of the five regions of the Department of Social Services.

TABLE 11
Appellants by social service region

REGION	FREQUENCY OF APPEALS	SOCIAL ASSISTANCE CASELOAD AS OF MARCH 31, 1986 BY REGION	POPULATION OF REGION	APPEALS AS A PERCENT OF TOTAL APPEALS
Western	101	4,323	113,628	34.5
Central	110	3,977	125,574	37.5
Eastern	43	4,265	124,051	14.7
St. John's	39	6,126	173,110	13.3
Labrador	-	793	31,318	-
Total	293	19,484	567,681	100.0

Each appeal was either an appeal of the decision of the Regional Administrative Review Committee, or the Regional Director, or the province's Director of Social Assistance. Applicants or recipients of Social Assistance in this province, who wish to have a decision formally reviewed, are required initially to request a review by a Regional Administrative Review Committee, unless the decision was made by the Regional Director or his/her designate. In cases where the decision being reviewed was made by the Regional Director or his/her designate, applicants or recipients can appeal directly to the province's Social Assistance Appeal Board. Of the 293 appeals, 57.0 percent (N=167) were appeals of the decision of the Regional Administrative Review Committees, whereas 42.0 percent (N=123) were appeals of the decision of the Regional Director's. Only 1.0 percent (N=3) of the appeals involved an appeal of the decision of the Director of Social Assistance.

Each of the 293 appeals were assessed to determine whether the law or policies enabled the social service employee to approve the requests. The law (Act and Regulations) enabled the employee to approve 78.8 percent (N=231) of the requests, compared with 18.4 percent (N=54) of the requests which could not be approved under the law. A total of 8 or 2.7 percent of the appeals did not contain the relevant information to ascertain whether the law enabled the employee to approve the request. The policies enabled the employee to approve

38.9 percent (N=114) of the requests, whereas 59.7 percent (N=175) of the requests could not be approved under existing policies. Information was unavailable to determine whether the policies enabled the employee to approve the requests in 1.4 percent (N=4) of the appeals.

This reflects the difference in the scope of the Act and Regulations, when compared to policy. While the Act and Regulations enabled 78.8 percent (N=231) of the requests to be approved, the policy enabled only 38.9 percent (N=114) of the 293 requests to be approved. It is thus evident that employees have considerably less scope within policy to consider requests for Social Assistance, than within the Act and Regulations.

The 293 appeals were related to 53 different elements of Social Assistance. Of the 293 appeals, 79.0 percent (N=195) related to 6 elements of Social Assistance. The remaining 98 appeals pertained to the other 46 elements of Social Assistance for which the number of appeals ranged from 1 to 7. Table 12 shows the elements of Social Assistance that were subject to 6 or more appeals: Regular Social Assistance - Family Unit (Common-Law) in Table 12 refers to an appeal by an individual who has had their Social Assistance terminated or decreased due to an alleged common-law living arrangement. It should also be noted that of the 32 appeals related to household furnishings and equipment, 23 were specifically related to a stove for heating/cooking purposes.

TABLE 12

Elements of social assistance subject
to nine or more appeals

ELEMENTS	FREQUENCY	PERCENT
Social Assistance for Single, Able-bodied Person	61	20.8
Regular Social Assistance -		
Family Unit (Common-Law)	28	13.0
Repairs to House	37	12.6
Rental Assistance	16	5.5
Special Diet	11	3.8
Household Furnishings and Equipment	32	10.9
Total	195	79.0

It is interesting that most of the appeals related to those elements of the Social Assistance for which provincial policies have been established, such as Social Assistance to able-bodied persons. In some instances, regional decision-making which differs from region to region affects the provision of some of the elements listed above.

Appeals by single, able-bodied persons for Social Assistance comprised 20.8 percent (N=61) of the appeals. Of the 61 appeals relating to Social Assistance for single, able-bodied persons, 32.8 percent (N=20) originated from the Western and 54 percent (N=33) originated from the Central

regions. The appeals relating to reductions or termination because of alleged family unit (common-law) relationship are primarily from the Western Region, with 71 percent (N=27) of the 38 appeals being from that region. The Central Region had 56.3 percent (N=9) of the appeals relating to rental assistance for single parents. There were a total of 16 appeals related to rental assistance for single parents.

An advocate assisted the appellant in 25.3 percent (N=74) of the appeals, whereas 74.7 percent (N=219) of the appellants were not assisted by an advocate.

Table 13 shows the types of advocate who assisted the 74 appellants.

TABLE 13

Appellants by client advocate

TYPE OF ADVOCATE	FREQUENCY	PERCENT
Member of House of Assembly (M.H.A.) / Member of Parliament (M.P.)	26	8.8
Family Relative	19	6.4
Legal Aid	15	5.1
Medical Doctor	5	1.7
Clergyman	4	1.4
Other	5	1.5
No Advocate	219	74.7
Total	293	100.0

Of the 74 appellants who used advocates, 41.9 percent (N=31) were from the Western Region. It is also interesting that 73.3 percent (N=11) of the 15 appellants who used legal aid were from the Western Region.

The number of appellants who attended the hearings of the Social Assistance Appeal Board is almost equal to the number of appellants who did not attend the hearings. Of the 293 appellants, 49.1 percent (N=144) attended the hearings, compared with 50.2 percent (N=147) who did not attend the hearings. The information was unavailable on two of the case files to determine whether or not the appellant attended the hearing.

The Appeal Board upheld the appeal in 31.4 percent (N=92) of the appeals, compared with 68.6 percent (N=201) where the Board denied the appeal.

The fact that 68.6 percent of the 293 appeals were denied may indicate that the Board considered the decisions that prompted the appeals to be reasonable decisions. It is also possible that the Board may not be using the full scope of the Act and Regulations when considering appeals, in view of the fact that the law enabled employees to approve 231 or 78.8 percent of the 293 requests.

The Appeal Board based its decision on law (Acts and Regulations) in 30.7 percent (N=90) of the appeals, whereas the Board based its decision on departmental policy in 68.9 percent (N=202) of the appeals. Information was unavailable

on one of the case files to determine whether the Board based its decision on law or policy.

In almost 70 percent of the decisions, the Board² relied upon departmental policies in rendering its decision. The reliance upon departmental policies instead of the Act and Regulations may indicate that the Board deemed the interpretation of departmental policies to be consistent with the intent of the law. However, the fact that departmental policy enabled employees to approve 114 or 38.9 percent of the 293 appeals, indicates that the Board has considerably less discretion within the parameters of departmental policy to uphold or deny appeals.

Table 14 shows the appeal outcome according to region.

TABLE 14

Appeal outcome by region

REGION	APPEAL OUTCOME				TOTAL BY REGION	PERCENT BY REGION
	APPEALS DENIED		APPEALS UPHELD			
	NUMBER	PERCENT	NUMBER	PERCENT		
Western	64	63.4	37	36.6	101	34.5
Central	83	75.5	27	24.5	110	37.5
Eastern	31	72.0	12	27.9	43	14.7
St. John's	23	59.0	16	41.0	39	13.3
Total	201		92		293	100.0

Table 9 on page 39 showed the 11 welfare districts which had 10 or more appeals. Table 15 below indicates the appeal outcome in these 11 welfare districts.

TABLE 15

Appeal outcome by welfare district with 10 or more appeals

WELFARE DISTRICT	APPEAL OUTCOME		TOTAL
	APPEAL DENIED	APPEAL UPHELD	
Lewisporte	16	6	22
Bonne Bay	14	6	20
Piccadilly	11	3	14
Baie Verte	9	4	13
Grand Falls	9	4	13
Bell Island	7	5	12
St. John's	9	3	12
Channel	11	1	12
Corner Brook	5	7	12
Deer Lake	7	4	11
Gambo	7	3	10
Total	105	46	151

In all of the above appeals, the Board denied more appeals of the Department of Social Services than they upheld, with

the exception of the Corner Brook District. In that district of 12 appeals, the Board upheld 7 appeals and denied 5 appeals.

Table 16 indicates whether the Appeal Board upheld the appeal or denied the appeal according to whether it was an appeal of the decision of the Director of Social Assistance, Regional Director or Regional Administrative Review Committee.

TABLE 16

Appeal outcome according
to decision-making level

LEVEL OF DECISION APPEALED	APPEAL OUTCOME		TOTAL
	DENIED	UPHELD	
Director of Social Assistance	1	2	3
Regional Director	86	37	123
Regional Administrative Review Committee	114	53	167
Total	201	92	293
Percent	68.6	31.4	

Table 17 shows whether the Appeal Board upheld the appeal or denied the appeal according to the type of advocate used by the appellant.

TABLE 17

Appeal outcome according
to type of advocate

TYPE OF ADVOCATE	APPEAL OUTCOME		TOTAL
	APPEAL DENIED	APPEAL UPHELD	
Member of House of Assembly (M.H.A.)/Member of Parliament (M.P.)	16	10	26
Family Relative	7	12	19
Legal Aid	4	11	15
Medical Doctor	1	4	5
Clergyman	2	2	4
Other	3	1	4
Medical Social Worker	-	1	1
Total	33	41	74

According to the above table, the advocates that were associated with more appeals upheld instead of denied were family relatives, legal aid lawyers, medical doctor and medical Social Worker.

The Appeal Board upheld 38.9 percent (N=56) of the appeals where the appellant attended the hearing compared with 23.1 percent (N=34) where the appellant did not attend the hearing. Thus it may be to the appellants' advantage to actually attend the hearing.

A total of 125 of the appeals were from females, compared with 168 appeals from males. Of the appeals from females, 33.6 percent were upheld, compared with 29.8 percent of the appeals from males.

A further dimension of the study involved a structured independent interview with the three members of the Social Assistance Appeal Board. Each member was asked nine questions (See Appendix F).

The following represents the findings from the interviews:

1. Purpose of the Appeal Board

The members were asked to respond to the following question: What do you see as the purpose of the Appeal Board?

The members of the Appeal Board were consistent in their statement of the purpose of the Appeal Board. The following three responses reflect the purpose of the Appeal Board, as seen by the three members:

- (i) "Adjudicating body between career people who are required to administer regulations and clients who feel that they have not received justice in the system - Court of last resort for these people."
- (ii) "Make sure needs of clients are taken to highest level, if the level they are gone to has been unsatisfactory for them."

- (iii) "Good to both client and Department. Reinforces the decision of the Department of Social Services if its right. For clients, it's good because there are times they don't get what they deserve or their actual entitlement."

2. Common Areas of the Social Assistance Program That Result in Appeals

The members were asked to respond to the following question: What are the most common policy issues that end up in an appeal?

The three members felt that most of the appeals were related to the following aspects of the Social Assistance Program: (i) Social Assistance for single, able-bodied persons; (ii) Social Assistance for individuals and families alleged to be residing in a common-law relationship or family unit; and (iii) Rental Assistance for unmarried mothers. It is interesting to note that 35.8 percent (N=105) of the appeals relate to these aspects of the Social Assistance program.

3. Limits of Decision-Making Authority of the Appeal Board

The members were asked to respond to the following question: How would you describe the limits of decision-making authority of the Appeal Board?

The three members indicated that they never felt constrained by policy since they were advised in the beginning that while they were required to make decisions within the scope of the Social Assistance Act and Regulations, the departmental policies were to be considered guidelines. One

member stated that there was "no problem now getting around a rule to help someone if you want to help them."

4. Regions in Which Staff Use the Maximum Discretion Within the Context of Departmental Guidelines to Provide Assistance to Clients. (1 = Maximum, 5 = Minimum).

The members were asked to respond to the following statement: Please rank the five regions in terms of how the staff use the maximum discretion within the context of Departmental guidelines to provide assistance to clients. (1 = high, 5 = low).

Based on their experience on the Appeal Board, the three members each ranked the regions in the following manner, in response to the above statement.

1 Labrador,	1 Labrador	1 Labrador
2 St. John's	2 St. John's	2 St. John's
3 Eastern	3 Central	3 Eastern
4 Central/Western	4 Eastern	4 Central
	5 Western	5 Western

One member indicated that "in terms of the St. John's region, it was amazing that there were so few appeals in view of the greater number of clients in the region - Is it a case of more sophisticated clients? Higher level of training among staff? Geography? - i.e. accessibility of counselling and resources."

5. Barriers to The Appeal Process for Social Assistance Recipients

The members were asked to respond to the following question: What are the barriers to the appeal process for Social Assistance recipients?

The members responded to this statement by specifying the following barriers:

- (i) Geographical distance from the hearing. Initially the Board met in the larger centres, i.e. St. John's, Grand Falls and Corner Brook; however, the Board now holds hearings in such places as Springdale and Deer Lake, so that it is easier for appellants to attend the hearings. However, it is still difficult for appellants to have access to the Board if they reside on the Great Northern Peninsula or in the Bay D'Espoir area.
- (ii) Clients not aware of the Appeal Board.
- (iii) Time involved in processing an appeal - 3 - 6 months.
- (iv) Clients not aware that they can use a lawyer or another individual to represent them at the hearing.
- (v) The perception of the Board by clients. It was necessary for the board members to "emphasize the fact that they are independent and not employees of the Department of Social Services," during the hearings.
- (vi) Appellants do not have the money to enable them to attend the hearing and obtain reimbursement later. One member stated that clients "should be given the funds to get there in the first place - some clients figure when they get to the meeting they will get the money at the meeting to cover the costs of their travelling to the hearing."

- (vii) Access to the report that resulted in the appeal. One member felt that the "ground for refusing should be available."

6. Barriers to Effective Operation of The Appeal Board

The members were asked to respond to the following question: What do you feel are the barriers to effective operation of the Appeal Board?

The members responded to this statement with the following comments:

- (i) The fact that most and for a period of time, all of the members were from St. John's has been a barrier in that it has made it more difficult for the Board to travel throughout the province, particularly to the more remote parts of the province. If the members were from different regions of the province, it would be easier for the Board to hold hearings throughout the entire province.
- (ii) "The Executive Secretary should be excluded from the bargaining unit in view of the fact that during the recent labour dispute, appeals could not be heard."
- (iii) "Lack of orientation for new board members in order to become knowledgeable about the appeal process, the legislation and policies of the Department of Social Services."

7. Changes That Would Improve the Appeal Process?

The members were asked to respond to the following question: What changes would you make to improve the appeal process?

- (i) Amend the Social Assistance Act to change the composition of the Appeal Board, so that the Board would be comprised of a chairperson and six members - two from the Avalon Peninsula (Eastern Region and St. John's Region); two from Central Region and two from the Western Region.

The Chairperson would travel everywhere that a hearing was required, in addition to two other members. For example, if the appeal was from Corner Brook, the Chairperson and the two members from the Western Region would hear the appeal. It would thus be much easier for the Appeal Board to travel to the more rural areas of the province, since only the Chairperson would have to travel. The two other members would be in close physical proximity to the location of the hearing.

- (ii) Orientation and on-going training for the members of the Appeal Board.

Members would be updated on changes to the legislation and policies if orientation and on-going training was conducted for the members of the Board.

- (iii) Use of modern communications technology - teleconference, telephone, etc., to hold 'Tele-Appeal Hearing'.

Appellants residing in areas such as St. Anthony, would have access to the Board if modern communications technology was utilized.

- (iv) Reduce the length of times to process Appeals.
- (v) Inform clients of their right to appeal.
- (vii) Provide appellants with the funds to travel to the hearing, instead of expecting them to travel to the hearing and later receive reimbursement.

8. Client Awareness Of Their Right To Appeal

The members were asked to respond to the following question: How would you describe the situation in this province?

- (i) "Varies throughout the province - those on the Avalon are better informed. The closer clients are to the regional office, i.e. Corner Brook, Grand Falls, etc., the more clients seem to be informed of their right to appeal."

- (ii) "Situation has improved - a pamphlet describing the Appeal Procedure was recently included in every recipient's Social Assistance cheque."
- (iii) "They weren't informed at all previously - they should be told of their right to appeal and the appeal process. A supply of the pamphlets should be available in each office."
- (iv) "Make it mandatory to inform clients of their right to appeal."
- (v) "The number of appeals has decreased - Social Workers are now more understanding of the needs of people."
- (vi) "Drastic drop in number of appeals from single able-bodied individuals. They are now providing them with Social Assistance, especially during the winter months."
- (vii) "Younger social workers seem more understanding."

9. The Role of the Appeal Board in Relationship to Professional Staff

The members were asked to respond to the following questions:

When the Appeal Board in this Province rules in favour of the client, the Board is cast in the role of overruling professional staff. (a) Do you feel this affects the functioning of the Board? (b) How do you feel it can be improved?

The response to these questions were as follows:

- (i) "Feels there is no problem with overruling staff. I find it irritating in situations where I feel Social Workers know the client better than anyone else and then you get the District Manager, Regional Director or Regional Administrative Review Committee going against the Social Workers."

- (ii) "Finds that if social worker recommended the request and sometimes the District Manager also recommended it and then if the next level of management do not approve it, it is necessary to take a hard look at the situation. They are close to the client's situation and in a position to know the client's situation best."
- (iii) "The problem of overpayments and their recovery is difficult, especially when it's set up as a result of staff error. Sometimes client do not know what is happening. If it's an error on the client's part, then recovery should be pursued; however, it should be looked at differently if it's caused by staff."

The members felt that the situation could be improved by:

- (i) "Orientation and training for social workers and managers in the area of appeals."
- (ii) "Hold the hearings in buildings other than Social Services offices and use the Town Council building or a similar building."

Clients feel more comfortable in such settings than if the hearing is held in Social Services offices."

- (iii) "Have a range for overpayment recovery from 1 to 5 percent, instead of the recovery rate of 5 percent."

There is a feeling of resentment when overpayments are set up and the Social Worker made the mistake that caused the overpayment."

- (iv) "Suspension of a client's Social Assistance should only occur if Social Worker has the evidence."

In some instances, it appears that the Social Worker suspends a client's Social Assistance realizing he/she does not have the evidence and suggests the client appeal the decision if dissatisfied. The Board is then in the situation of having to make a decision with very scant evidence."

The responses to the nine questions have been provided as stated during the individual interviews. They reflect the unanimity of the board, as to its purpose, the scope of the board's decision-making authority, the barriers that currently exist and changes they feel should be made to improve the appeal process. Their recommendations to improve the appeal process reflect their desire to ensure that the Appeal Board functions effectively as a court of last resort for clients who feel they have not received their appropriate entitlement to Social Assistance.

Limitations

The major limitation of this study is that it does not address questions related to those individuals who decide not to appeal to the Appeal Board. Such questions as: (1) Why do they not appeal? (2) Do they use an alternative approach i.e. informal system? (3) Are they aware of the existence of the Appeal Board? (4) If so, are they able to use the Appeal process?

A further limitation of this study is that while the data answers many questions, it also generates many questions that can only be addressed by a further study. Such questions as: (1) Why are most of the appeals originating from the Western and Central Regions? (2) Why are there so few appeals from the St. John's and Eastern Regions? (3) Why are there no appeals from the Labrador Region? (4) Why

do Social Worker and Social Assistance Workers not recommend/approve more requests for those elements of the Social Assistance program that are appealed, in view of the discretion within policy and legislation? (5) Why are most of the appeals from single able-bodied persons seeking Social Assistance originating from the Central and Western Regions? (6) Why are most of the appeals from clients who have had their Social Assistance reduced or terminated due to an alleged family unit (common-law) relationship from the Western Region?

A study that would address these and other questions could add significantly to the current knowledge base in the area of appeals. In this study, the data is organized and presented in a manner that responds to specific questions, however, comments have been limited to certain findings. This has been necessary due to the complication that no single factor is the cause of an outcome but some combination and interaction of factors may go together under certain conditions to yield a given outcome.

CHAPTER 5

CONCLUSIONS AND RECOMMENDATIONSSummary

Appeal Boards can serve as an effective mechanism for promoting justice in public assistance. They are comprised of independent members who have the authority to make decisions within the ambit of Social Assistance legislation. Of course, clients need to know they exist and also need to know the legislation and policies in order to be effective. In addition, the need for an advocate, and if possible, a lawyer is evident to ensure that the minimum requirements of natural justice are followed.

The review of the literature revealed that the criticism of local agency practices reached its peak in 1970 with the United States Supreme Court's decision in *Goldberg vs Kelly*, that AFDC recipients must be provided an opportunity to evidentiary hearings before termination of their benefits (O'Neil, cited in Hammer & Hartley, 1978). The relationship of legal representation on the outcome of appeals has been examined and while the findings indicate the need for Social Workers to be informed about the appeal procedures, it also found that petitioners without legal counsel were able to use the procedural safeguard of evidence presentation. (Hagan, 1983). However, in order to utilize appeal opportunities more effectively, citizen's must know

that they exist and know the laws and regulations that constrain administrative practice. The need for expertise in pursuing grievances was also evident.

This descriptive study involves an examination of appeals for the province of Newfoundland and Labrador for the period April 1, 1983, to March 31, 1986. A total of 293 appeals were examined. Interviews were also conducted with the three members who comprise the Appeal Board.

The findings revealed that most of the 293 appeals are from the Central and Western Regions, with 37.5 percent (N=110) and 34.5 percent (N=101) of the appeals originating from these regions respectively. Of the appellants, 54 percent (N=160) were single, while 37 percent (N=109) were married. A study that would examine the reason(s) why no appeals originate from the Labrador Region would be beneficial.

While Social Assistance policies cannot exceed the parameters of the Social Assistance Act and Regulations, the policies may limit or be more restrictive than the Social Assistance Act and Regulations. The findings revealed that the Social Assistance Act and Regulations permitted 78.8 percent (N=231) of the 293 requests to be approved. The Social Assistance policy relating to specific aspects of Social Assistance i.e. housing, single-able-bodied, enabled 38.9 percent (N=114) of the 293 requests to be approved. It is evident that the Appeal Board has considerable discretion.

within the Social Assistance Act and Regulations in making its decisions, in comparison to the scope that exist within policy.

Of the 293 appeals, 79.0 percent (N=195) were related to six elements of Social Assistance. They were: Social Assistance for single-able-bodied persons, Social Assistance terminated due to alleged common-law relationship, housing repairs, rental assistance, special diet and household furnishings and equipment.

The decisions of the Appeal Board were examined according to a number of different perspectives. The Appeal Board upheld 31.4 percent (N=92) of the 293 appeals. The fact that the 68.6 percent (N=201) of the 293 appeals were denied may indicate that the Board considered the employee decisions that prompted the appeals to be reasonable decisions. It is also possible that the Appeal Board may be reluctant to use the full scope of the Act and Regulations when considering appeals, in view of the fact that the law enabled employees to approve 78.8 percent (N=231) of the 293 requests. It is evident that the Appeal Board heavily relied upon departmental policies in rendering its decisions, in that almost 70 percent of the decisions were based on departmental policies, compared with 30.7 percent (N=90) of their decisions based on law. The fact that 34.4 percent (N=92) of the 293 appeals were upheld indicates that the Appeal Board has been instrumental in ensuring that approximately 30 percent of the appellants received their entitle-

ment to Social Assistance. Moreover, the findings indicate that employees have considerably less scope within departmental policy to approve requests, in view of the fact that departmental policy enabled only 38.9 percent (N=114) of the 293 appeals to be approved.

The highest percentage of appeals upheld was in the St. John's Region with 41.0 percent (N=16) followed by 36.6 percent (N=37) in the Western Region, 27.9 percent (N=12) in the Eastern Region and 24.5 percent (N=27) in the Central Region.

Of the advocates used by the appellants, 35 percent (N=26) were members of the House of Assembly or the House of Commons, 25 percent (N=19) were family relatives and 20 percent (N=15) were legal aid lawyers. Of the 26 that used M.H.A.'s or M.P.'s, 38 percent (N=10) were upheld, compared with 63 percent (N=12) being upheld for those appellants who used a family relative. Of the 15 appellants that used legal aid lawyers, 73 percent (N=11) of the appeals were upheld.

The findings also indicated that it may be to the appellants advantage to actually attend the hearing of the Appeal Board since 39 percent of the decisions were upheld where the appellants attended the hearing, compared to 23 percent for the appellants who did not attend the hearing.

The interviews with the members of the Appeal Board revealed that they do not feel constrained by policy since they understand that departmental policies are guidelines

only and that they have the full scope of the Social Assistance Act and Regulations within which they can make their decisions. The members did indicate that there are a number of barriers to the appeal process for Social Assistance recipients. They include: (1) geographical distance from the hearings; (2) clients not aware of the appeal process; (3) time involved in processing an appeal; (4) client not aware that they can use a lawyer or another individual to represent them at the hearing; (5) appellants not having the money to enable them to attend the hearing and having to be reimbursed later; (6) access to the report that resulted in the appeal so that they know the case against them and (7) the perception on the part of some clients that the Appeal Board is not independent.

The members identified the following barriers with the actual operation or management of the Appeal Board.

(1) The fact that two of the three members reside in St. John's affects the ease with which the Board can travel throughout the province; (2) the inclusion of the Executive Secretary of the Appeal Board in the bargaining unit, thereby rendering the Appeal Board dysfunctional during a labour dispute and (3) lack of orientation for new board members so that they can become knowledgeable about the appeal process, the legislation and policies of the Department of Social Services.

The members recommended the following changes to improve the appeal process: (1) Amend the Social Assistance Act and Regulations to change the composition of the Appeal Board so that the Board would be comprised of a Chairperson and six members - two from the Avalon Peninsula (Eastern and St. John's Regions); two from Central Region and two from the Western Region. The Chairperson would travel everywhere that a hearing was required, in addition to two other members. For example, if the Appeal was from Corner Brook, the Chairperson and the two members from the Western Region would hear the appeal; (2) training and orientation for the members of the Appeal Board so that members are updated on change in legislation and policies; (3) use of conference calls and the teleconference system to increase client access to the Board; (4) reduce the length of time to process appeals; (5) inform clients of their right to appeal; and (6) provide appellants with the funds to travel to the hearing, instead of expecting them to travel to the hearing and receive reimbursement later.

The members felt that clients are not always informed of their right to appeal, however, the situation has improved. A brochure describing the appeal process has been widely distributed to clients to increase awareness of the appeal process. The need for orientation and training for social workers and managers in the area of appeals was also emphasized by the members of the Appeal Board.

Recommendations

The study revealed a number of improvements that could be made to improve the appeal process in the province. The following recommendations are, therefore, being made with a view to improving the appeal process:

1. Recommendation - The Social Assistance Act should be amended to give the Appeal Board the authority to make recommendations to the Minister of Social Services regarding the acts, regulations and administrative practices that pertain to appeals heard by the Appeal Board.

Rationale - In the province of Quebec, the appeal body (Commission des Affaires Sociales (CAS) has this authority under its Act and "since its inception, the Commission has made full use of this authority. Its recommendations, particularly in the area of social assistance and allowances, are generally adopted by the authorities." (Health and Welfare Canada, 1981). In Alberta, the Citizen's Appeal and Advisory Committees "are encouraged to submit recommendations supplementary to their appeal decisions. To facilitate this, a space has been allocated on the "Appeal Report" form. Recommendations on this form deal primarily with policy matters but, at times, have included recommendations for changes in legislation.... This often results in immediate policy changes and, at times, legislative changes. The Minister responds to every recommendation brought to his attention." (Health and Welfare Canada, 1981).

2. Recommendation - The provincial policies and regional practices relating to the aspects of Social Assistance that were subject to nine or more appeals. (See Table 12, page 41) should be reviewed in view of the fact that 79 percent (N=195) of the Appeals were related to six aspects of Social Assistance.

Rationale - This practice would ensure that provincial policies or regional practices are modified with a view to decreasing the number of appeals related to these aspects of Social Assistance. In addition, the policies of the Department of Social Services are also expected to comply with the equality provision of the Charter of Rights and Freedoms and such a review could examine which policies need modification to ensure compliance with the Charter.

3. Recommendation - Training in the area of appeals should be conducted in each of the regions for managers and social workers involved in the delivery of the Social Assistance Program. Orientation and on-going training should also be conducted for the members of the Appeal Board.

Rationale - Such training would ensure that staff and members of the Appeal Board are familiar with the appeal process and the appropriate intent and interpretation of legislation and policies.

4. Recommendation - It should become mandatory to inform clients of their right to appeal each time a decision is made regarding their Social Assistance. The Social

Assistance application form should be revised so that each time the employee makes a decision regarding a client's request for Social Assistance, the client's copy of the application form specifies the client's right to appeal and the address for the Appeal Board. In addition, the brochure describing the appeal process should be available in the waiting room of each District Office. An excellent booklet entitled, No Big Secret: Social Assistance Information for Advocacy Workers in Nova Scotia, has been published by the Public Legal Education Society of Nova Scotia (1984). The Society is funded by the Law Foundation of Nova Scotia. A similar publication would be very helpful for Social Assistance clients in this province.

Rationale - Unless it becomes mandatory to inform clients of their right to appeal each time a decision is made regarding their Social Assistance, the number of clients utilizing the appeal process will continue to be minimal. Furthermore, unless verification is required in the case file to indicate that the client was informed of the right to appeal, it is impossible to monitor compliance.

5. Recommendation - A study should be completed to determine the reason(s) why such a small number of clients utilize the appeal process.

Rationale - Such a study may provide further information to improve the appeal process, particularly in terms of increasing the usage of the appeal process by clients.

6. Recommendation - The data that was obtained for this study should be collected on an on-going basis by the Appeal Board.

Rationale - This would enable appeal decisions to be monitored to identify policy concerns. This information could be used by the Director of Social Assistance to make appropriate policy and procedure modifications, as well as for planning purposes.

7. Recommendation - The Appeal Board should hold hearings in communities that are closer to the home of the appellant and if necessary in the appellant's home.

Rationale - This would ensure that the Appeal Board is more accessible to appellants. In Quebec, hearings are occasionally held at the appellant's homes and "in Manitoba the Appeal Board convenes in the home community of the appellant whenever possible and will convene in the home of the appellant on request." (Health and Welfare Canada, 1981).

8. Recommendation - Appellants should be reimbursed for travel and meals at the hearing if they are required to travel to a central location.

Rationale - Unless appellants have the funds to travel to the hearing, so that he/she is aware of the case being made against him/her and given an opportunity to answer it, the appeal process is unlikely to be viewed as an effective mechanism for promoting justice within the

Social Assistance program. In Manitoba, "if an appellant is required to go to a central location, he/she is reimbursed for travel and meals at the same rate paid to government employees." (Health and Welfare Canada, 1981).

9. Recommendation - A study should be completed to determine why the Welfare Districts with most of the appeals, had District Managers who had not completed a university degree in Social Work.

Rationale - Of the 293 appeals, 51.5 percent (N=151) originated from 20.8 percent (N=11) of the Welfare Districts. (See Table 9, page 36). Nine of these 11 Welfare Districts had a District Manager who had not completed a university degree in social work. It is, therefore, important to determine why such a large number of the appeals are originating from these districts.

10. Recommendation - The decisions of the Appeal Board specifying the reasons for its decision should be published in a compendium of cases that should be available to the parties and their lawyers.

Rationale - It is very important for appellants and advocates to be aware of the decisions rendered by the Appeal Board since such information would be very beneficial in preparing for Appeal Board hearings. Decisions would become public which would be beneficial in enabling the board to be accountable and it may also contribute to more uniformity in decision-making. In Quebec, the Appeal Board "publishes

three such volumes a year, each about 700 pages long, that is placed at the disposal of the parties and their attorneys." (Health and Welfare Canada, 1981).

11. Recommendation - The Social Assistance Act and Regulations should be amended to change the composition of the Appeal Board, so that the Appeal Board would be comprised of a chairperson and six members - two from the Avalon Peninsula (Eastern Region and St. John's Region), two from the Central Region and two from the Western Region. One of the six members should be appointed Vice-Chairperson so that he/she could travel in the event the chairperson is unable to travel to the hearing.

Rationale - With the expanded Appeal Board, the Chairperson would travel everywhere that a hearing was held, in addition to the two members from the region from which the appeal emanated. For example, if the appeal was from Corner Brook, the Chairperson and the two members from the Western Region would hear the appeal. It would thus be easier for the Appeal Board to travel to the more rural areas of the province, since only the Chairperson would have to travel. The two other members would be in close physical proximity to the location of the hearing.

12. Recommendation - The Social Assistance Act should be amended to require the Board to conform to certain procedures and rules of evidence generally applicable to such proceedings.

Rationale - In view of the fact the province does not have an Act similar to Alberta's Administrative Procedures Act or Ontario's Statutory Powers Procedures Act, that would specify the procedures and rules of evidence for all tribunals in the province, it is very important that the Social Assistance Act specify the procedures and rules of evidence generally applicable to such proceedings. It is very positive that Mr. Hudson Davis, the former Chairman of the Appeal Board, adopted certain minimum requirements of natural justice following an analysis of the legislation by legal counsel, however, it is important that the minimum requirements of natural justice be a part of the legislation. Unless the procedures and rules of evidence are clearly specified in the legislation, the members of the Appeal Board, advocates and appellants may not know when natural justice is being denied with consequent likelihood of reversal in court.

Each of the provinces and territories have established Appeal Boards as a mechanism for promoting social justice in public assistance. Appeal Boards will likely continue to be the mechanism that clients will utilize if they feel they have not received their appropriate entitlement. Consequently, Social Workers and clients need to be aware of the appeal process when dissatisfied with a decision that seems to be inappropriate.

This study has identified a number of improvements that could be made to enhance the appeal process in the province. The implementation of the changes recommended in the legislation and management of the Appeal Board process, as well as the completion of the studies recommended, could significantly enhance the appeal process.

XXXXXXXXXX

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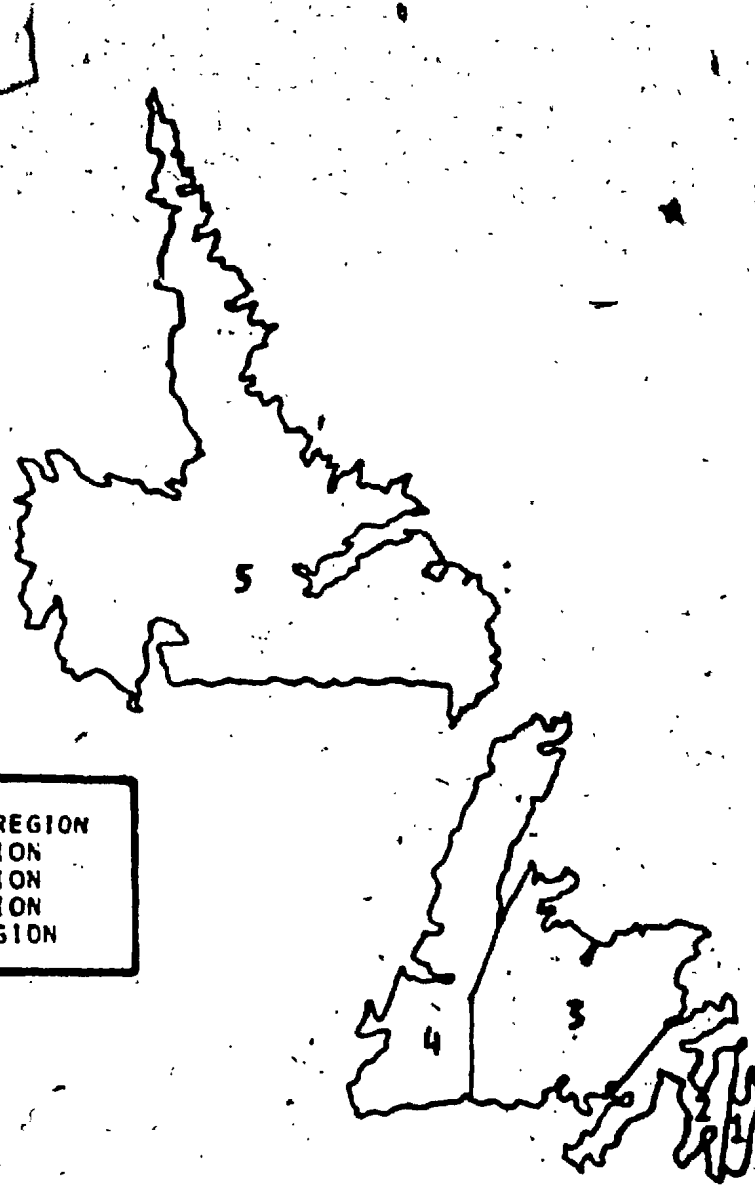
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APPENDIX A



GOVERNMENT OF NEWFOUNDLAND AND LABRADOR

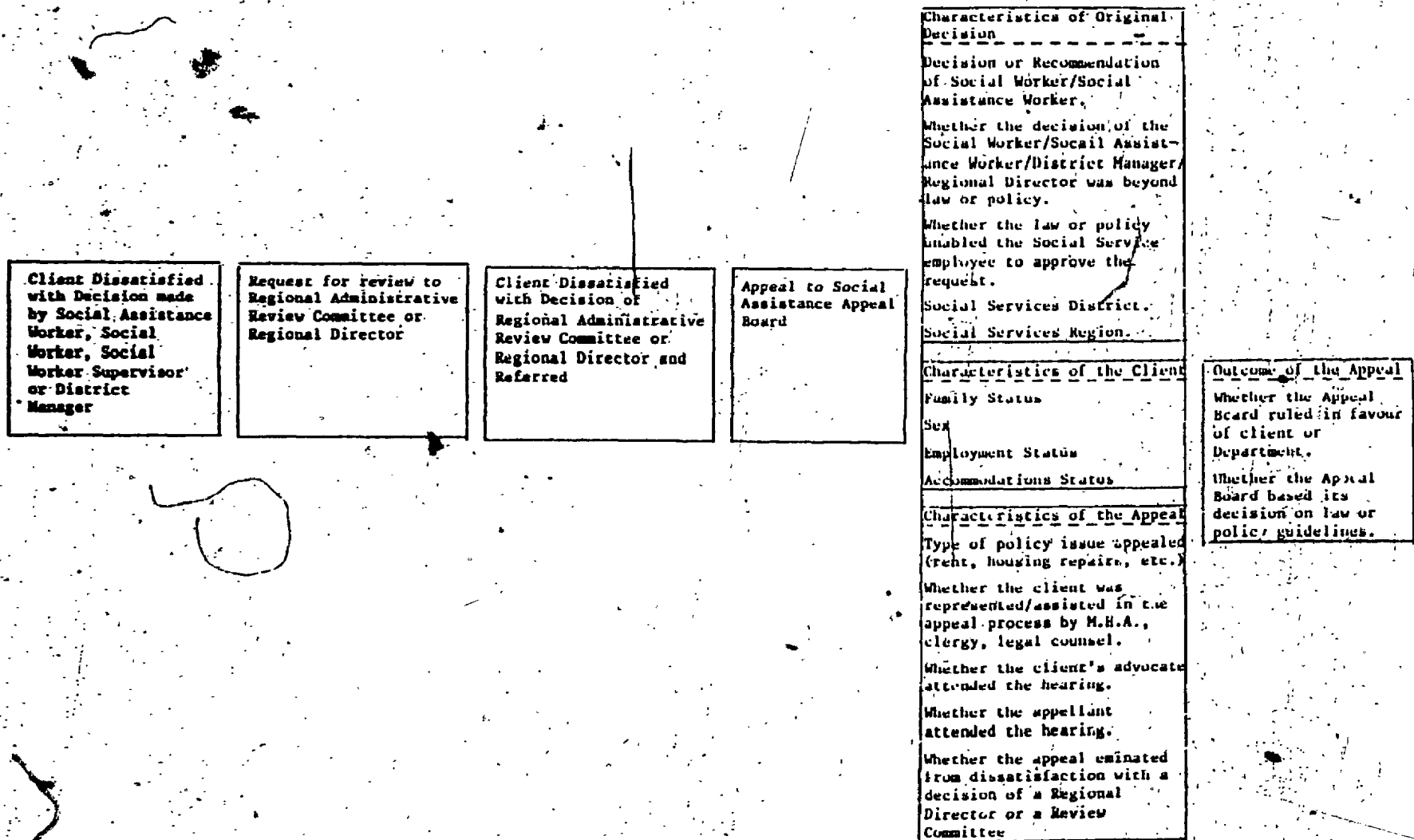
- 
- 1 - ST. JOHN'S REGION
 - 2 - EASTERN REGION
 - 3 - CENTRAL REGION
 - 4 - WESTERN REGION
 - 5 - LABRADOR REGION

DEPARTMENT OF SOCIAL SERVICES

APPENDIX B

APPENDIX E

THE REVIEW AND APPEAL PROCESS FOR SOCIAL ASSISTANCE CLIENTS WHO ARE DISSATISFIED WITH A DECISION.



APPENDIX C

ST. JOHN'S REGION

Regional Office

District Offices

- Bell Island
- Ferryland
- Kelligrews
- St. John's Center
- St. John's East
- St. John's West

EASTERN REGION

Regional Office

District Office

- Arnold's Cove
- Bay L'Argent
- Bay Roberts
- Bonavista
- Clarenville
- Grand Bank
- Harbour Grace
- Heart's Content
- Marystown
- Placentia
- St. Mary's
- Whitbourne

LABRADOR REGION

Regional Office

District Offices

- Cartwright
- Davis Inlet
- Forteau
- Happy Valley
- Hopedale
- Mary's Harbour
- Nain
- Sheshatshiu
- Wabush

WESTERN REGION

Regional Office

District Office

- Bonne Bay
- Burgeo
- Channel
- Corner Brook
- Deer Lake
- Englee
- Flower's Cove
- Piccadilly
- Port Saunders
- St. Anthony
- Stephenville
- Stephenville Crossing

CENTRAL REGION**Regional Office****District Offices**

- Baie Verte
- Botwood
- Carmanville
- Fogo
- Gambo
- Gander
- Glovertown
- Grand Falls
- Harbour Breton
- Lewisporte
- Milltown
- Springdale
- Twillingate
- Wesleyville

APPENDIX D

CASE FILE DATA SHEET

		CASE NO.
		YEAR
		WELFARE DISTRICT
		ELECTORAL DISTRICT
		REGION
	RD	WHETHER APPEAL WAS AN APPEAL OF THE RD'S DECISION;
	RARC	RARC'S DECISION OR DIRECTOR'S
	DIF	DECISION OR RECOMMENDATION OF SOCIAL SERVICE EMPLOYEE
	+	WAS DECISION OF SOCIAL SERVICE EMPLOYEE BEYOND LAW OR POLICY
	-	WHETHER THE LAW OR POLICY ENABLED THE SOCIAL SERVICE EMPLOYEE TO APPROVE THE REQUEST
	+	FAMILY STATUS
	-	EMPLOYMENT STATUS
	+	HOUSING STATUS
	-	DEPENDENTS
	+	TYPE OF POLICY ISSUES APPEALED
	-	WAS CLIENT ASSISTED IN THE APPEAL
	+	IF YES, DID THE ADVOCATE ATTEND THE HEARING
	-	TYPE OF CLIENT ADVOCATE
	+	DID THE APPELLANT ATTEND THE HEARING
	-	WHETHER THE APPEAL BOARD RULES IN FAVOUR OF CLIENT
	+	WHETHER APPEAL BOARD BASED ITS DECISION ON LAW OR POLICY
	-	WHETHER APPEAL WAS WITHDRAWN
		AGE
		SEX OF

NUMBER

APPENDIX E

APPENDIX K

CODE SHEET

POLICY ISSUE APPEAL

SEX
YES = 1 MALE = 1
NO = 0 FEMALE = 0
LAW = 1
POLICY = 0

FAMILY STATUS

Married.....01
Widow.....02
Widower.....03
Spinster.....04
Bachelor.....05
Separated.....06
Deserted.....07
Divorced.....08
Unmarried Mother.....09
Common-law.....10
Missing Value.....9

ACCOMMODATIONS STATUS

Own Home.....01
Rented House.....02
Rented Apartment.....03
Single Room/Bed Sitting Room.....04
Room & Board with Relatives.....05
Room & Board with Non-relatives.....06

ADVOCATE CODE

M.H.A.....01
M.P.....02
Clergyman.....03
Community Social Service
Agency (Non-Government).....04
Medical Doctor.....05
Legal Aid.....06
Social Worker (hospital).....07
Spouse.....08
Son.....09
Father.....10
Sister.....11
Human Rights Association.....12
Daughter.....13
Mother.....14
Mother-in-Law.....15
Landlord.....16
Brother-in-law.....17
Not specified.....18
Friend.....19

REASON FOR WITHDRAWAL OF APPEAL

S.A. Granted During Appeal
Process.....01
Client Requested Appeal Being
Withdrawn(no reason provided).....02

Rental Assistance
Single Parent.....01
Rental Assistance
Single Person.....02
Rental Assistance
Family.....03
Social Assistance
Single Able-bodied
Person.....04
Increase to Regular
Rate Level - Single
Able-bodied Person.....05
Board & Lodging with
Relatives.....06
Board & Lodging with
Non-relatives.....07
Mortgage Payments.....08
Increase in Regular
Assistance.....09
Purchase of House.....10
Repairs to House -
Material &/or
Labour.....11
Housekeeper Allowance.....12
Pregnancy Food Allowance.....13
Household Furnishings
and Equipment.....14
Assistance to Enable a
Person to Stay in
Own Home.....15
Diabetic Food Allowance.....16
Stove.....17
Move a House.....18
Clean Septic Tank.....19
Excesses.....20
Overpayment Recovery.....21
Effective Date for
Enriched Needs.....22
Repairs to Washer.....23
Electric Stove.....24
Floor Covering.....25
Bed.....26
Mortgage Arrears.....27
Paint & Insulation.....28
Water Pump Repairs.....29
Boarder Assessment.....30
Reimbursement for
Medical Transportation.....31
Amount for Special Diet.....32
Retroactive diabetic al-
lowance beyond 6 months.....33
Electric Heat.....34
Wiring.....35
Clothing.....36
Mattress.....37
Septic Tank.....38
Effective Date of Social
Assistance.....39
Electrical Arrears.....40
Stove Parts.....41
Chimney.....42
Dentures.....43
Transportation To and
From Work.....44
Well.....45
Medical Transportation.....46
Washer.....47
Bedding.....48
Hot Water Tank.....49
Drugs.....50
Additional Assistance.....51
Bathroom Facilities.....52
Kitchen Table & Chairs.....53
Regular Assistance -
(Family Unit).....54

EMPLOYMENT STATUS & REASON FOR ASSISTANCE
(select major reason for assistance)

Unemployed.....01
Part-time Employed.....02
Self-employed.....03
Fully Employed.....04
Attending School for University.....05
Attending Vocational School.....06

ILLNESS OR DISABILITY

Blindness.....07
Mental Illness.....08
Mental Retardation.....09
Physical Illness.....10
Social Disability.....11

CARING FOR CHILDREN ONLY AND/OR EXPECTING
A CHILD

Spouse in Home for Special Care.....12
Spouse in Hospital.....13
Spouse in Penal Institution.....14
Spouse Deceased, Deserted,
Separated or Divorced.....15
Unmarried Mother.....16
Expectant Unmarried Mother.....17
Caring for Spouse Only.....18
Caring for Spouse and Children.....19
Spinster/Bachelor Caring for
Child/Children.....20
Supplement to U.I.B.....21

AGE

Female over 50.....22
Male over 65.....23

APPENDIX F

QUESTIONNAIRE, - APPEAL BOARD MEMBERS

1. What are the most common policy issues that end up in an appeal?

2. What do you see as the purpose of the Appeal Board?

3. How would you describe the limits of decision-making authority of the Appeal Board?

4. Please rank the five regions in terms of how the staff use the maximum discretion within the context of Departmental guidelines to provide assistance to clients. (1=high, 5=low)

_____ Central Newfoundland

_____ Western Newfoundland

_____ St. John's

_____ Eastern Newfoundland

_____ Labrador

5. What are the barriers to the Appeal process for Social Assistance recipients?

6. What do you feel are the barriers to effective operation of the Appeal Board?
7. What changes would you make to improve the Appeal process?
8. A problem with appeals is that clients are often not informed of their right to appeal and the process involved. How would you describe the situation in this province?
9. When the Appeal Board in this province rules in favour of the client, the Board is cast in the role of overruling professional staff. (a) Do you feel this affects the functioning of the Board? (b) If so, would you explain. (c) How do you feel it can be improved?

APPENDIX G



GOVERNMENT OF NEWFOUNDLAND AND LABRADOR
DEPARTMENT OF SOCIAL SERVICES

91.

ST. JOHN'S

1985 06 11

Mr. Gilbert Pike,
Deputy Minister.

Dear Mr. Pike:

As you are aware, I will have completed the coursework for the Master of Social Work Degree by August 10, 1985 and will be commencing work on my thesis in September 1985. My thesis proposal entitled "A Study of The Appeal Process for Social Assistance Recipients in Newfoundland & Labrador" has been submitted to the School of Social Work, and I plan to begin the data collection part of my thesis in September 1985. The data will be collected from the minutes of meetings of the Social Assistance Appeal Board, and interviews with members of the appeal. It may be necessary as well, to interview some field staff and a small number of clients. The data collected will, in all instances, be recorded without reference to any identifying information so that the confidentiality of the individuals involved will be respected. A copy of my thesis proposal is attached.

I would appreciate your permission to use the records of the meetings of the Social Assistance Appeal Board, and to conduct some interviews with field staff and clients, if required, for completion of my thesis.

Thank you for your co-operation and support.

Yours sincerely,

George R. Savoury,
Assistant Deputy Minister.

Attach.



