

Thus far we have been able to establish three contemporary *havurot* using this design. Although these *havurot* differ from ancient *havurot* in certain dimensions, the focus of both is the consolidation of Jewish identity. Social workers in a Jewish family agency are trained to deal with this area. This preventative type of program is one in which social workers can be of service in a meaningful way to the Jewish community.

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Government, Voluntarism, Jewishness and Accountability

An Essay on Principle and Principal*

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"For the Jewish communal agency, the issue is whether the agency can take government funds and yet preserve its Jewish mission. I see its mission to be an instrument of the Jewish community to continue Jewish identity, heritage, and life. So for the Jewish agency, the implications of government funding go straight to its core, its very existence."

Introduction

WHAT is the price Jewish communal agencies pay when they receive government funds for their services? That question, I think, like all important questions, must be reduced to a series of subquestions if a helpful answer is to be found.

How does government funding affect their position as voluntary agencies? How does it affect their ability to carry out their Jewish purposes? ("What are their Jewish purposes?") And how does the accountability which flows with the government funds affect their functioning as voluntary, and as Jewish, agencies?

We are talking about two different, though related, characteristics when we talk of the Jewish communal agency. It is at once a voluntary undertaking and a sectarian-ethnic venture. And although the concerns of the voluntary agency are shared by the Jewish communal agency, the Jewish agency has additional, special concerns.

For the voluntary agency, the issue is basically one of autonomy, freedom of action, control. Those words, though much maligned of late, describe the

fundamental and distinctive characteristic of the voluntary agency. So even for the general voluntary agency, the implications of government funding go straight to its core, its very existence.

For the Jewish communal agency, the issue is whether the agency can take government funds and yet preserve its Jewish mission. I see its mission to be an instrument of the Jewish community to continue Jewish identity, heritage and life. So for the Jewish agency, the implications of government funding go straight to its core, its very existence.

What this presentation deals with, then, is money, identity and existence!

Implications for the Voluntary Agency

To a significant extent we can view government as any other large and important contributor of money to the programs and purposes of the voluntary agency. If a significant contribution is made for a specified purpose to a voluntary agency, and the voluntary agency is willing to use those funds for that purpose, it then is accountable to the contributor for the programs and services rendered with those funds. In fact, if the contribution is large enough, the contributor could specify:

- (1) the people to be served in general,

* Presented at the Annual Meeting of the National Conference of Jewish Communal Service, Grossinger, New York, June 9, 1975.

- (2) the geographic area in which the program is to operate,
- (3) the services to be provided,
- (4) the program goals and objectives,
- (5) the methods and techniques to be used, and
- (6) what kind of staff is necessary.

This, admittedly, is a very rare occurrence with respect to the individual private contributor. It is less rare with respect to foundation grants for programs. It is not uncommon with respect to government funds. But conceptually, at least, it is very much the same whether it is an individual contributor, a foundation or government.

Can it really be otherwise? In a money economy like ours is not the cliché, "He who pays the piper . . ." a truism?

In the case of government as a contributor, the situation is even more complex. After all, the funds which the government is distributing are tax dollars. Cannot the taxpayer expect that the government will insist on the terms and conditions under which its dollars are to be used to deliver services? But while this may be so from the point of view of the taxpayer, it certainly impinges on the freedom of action, the autonomy, and the control of the programs of the voluntary agency.

For example, in New York City, the City government had determined that the best way to organize the delivery of mental health services was through a series of districts called catchment areas. In entering into contracts with voluntary agencies for the delivery of mental health services, the City government assigns them a geographical area within which the services under that contract are to be provided. For the small, neighborhood-based agency this represents no problem. But for the typical large voluntary agency, like those affiliated with Federation, a serious problem develops. Those agencies are

designed to provide services to large geographical areas. The restrictiveness of the City's catchment policy on those agencies precludes them from using government funds to provide services to persons who live outside the assigned catchment area. (We are not now considering the implications of this policy for the Jewish agency, but it is clear that there are serious implications there, too.) With respect to the general voluntary agency, its ability to determine where its services are to be provided is significantly restricted by the catchment policy.

Clearly, the catchment area policy also has an impact on the kinds of persons who can be served by a program funded with government funds. But government often seeks to define the persons to be served in ways other than their area of residence. For example, it may set eligibility according to income levels. From the government point of view, this is quite reasonable. It should be in a position to define the categories of persons who should be getting the services with the funds being provided by government. But if the definition of eligibility excludes persons who may need those services and who have been served by the voluntary agency, should the agency wish to make use of those government funds, it must divert service to the persons defined as eligible by the government program. It is even conceivable that individual eligibility and need for service may be determined by government employees if the services are to be paid for by government funds.

There is another, very important aspect to the provision of funds by government, which sets it apart, conceptually, from the large individual contributor or the foundation grant. I refer here to the fact that government has, as we lawyers refer to it, "the police power." It has the power to license and to remove licenses. It can otherwise

regulate conduct whether or not it is providing funds for such conduct. I need not belabor the point. We all know that there is a strong arm of government apart from its ability to provide funds.

But return for another purpose, to the conceptual analogy of government as large contributor. If an agency received 80-90% of its funds from a single contributor, I think it would be reasonable to assume that its programs, its directions, and the like would pretty much coincide with the interests and desires of the contributor. That, in fact, is the posture in which child-caring agencies in New York find themselves. For that reason they find it very difficult, though not impossible, to resist all demands upon them by their largest single contributor, the government. We discuss below what is necessary in order to maintain some independent freedom of action and choice.

The point here is that when an agency looks to government for funding of its basic program and services, it is acquiring a not-very-silent partner, not merely a beneficent contributor. On the other hand, if it looks to government funding for peripheral or experimental programs, it is able to maintain its own freedom of action with respect to its core services. I recognize, of course, that very few agencies are able to maintain the luxury of independent funding of core services in these days of terribly high costs and very great need. I merely make the point with respect to freedom of action so that an agency does not unreasonably expect that it will be able to take significant sums of money for its basic program from government without having to give up some of its autonomy.

It should also be remembered that when an agency becomes dependent on government, as on any other contributor, for its basic funding, it jeopardizes

its ability to fulfill another distinctive function of the voluntary agency. I refer here to its important function of serving as a watchdog on behalf of its clients with respect to governmental action. The experience in the early 1960's of Mobilization For Youth is informative in this regard. When Mobilization For Youth, funded largely with government funds, began to organize political forces to do combat with the political structure of the city on behalf of its clients, the funds were shut off until its activities moved in other directions.

We are all sensitive in our agencies to the interests of our lay leadership. We would be very hesitant to take positions which directly and adversely affected their lives. Is it reasonable to be expected that government as contributor would sit back and permit its dollars to go to an agency which was simultaneously challenging its basic interests and policies? Here again, another cliché turns out to be a truism: "Don't bite the hand that feeds you!"

Even if the amount of government funding is not a major part of the agency's budget, the nature of the funding can affect the agency's freedom of action. There are two basic kinds of program funds provided by government and each has a different impact on an agency's independence. The first, such as the usual situation in day care, provides a government grant for a full budget or program. That is, an agreement is entered into whereby for a specified sum of money, a specified number of persons will receive specified services.

In the second kind of government grant, the government purchases units of service. Increasingly, we can look to government to be using this format. This will mean that the government pays "X" dollars for each day of foster care for each child, for example. There will, of course, be other limitations on the kinds and need for this service. But

here, as distinct from the first type of government grant, an agency will be paid according to the number of units of service it provides, rather than having only a total amount set by the contract.

While there are risks to an agency in the second kind of arrangement, it has the advantage of keeping the government out of the perusal and supervision of the agency's overall budget or, in fact, the budget for the particular program. This is because the government's liability depends only on the contract price for each unit of service; the contract will probably contain a maximum number of units of service for which government would be liable. If the first arrangement is being used, it will be necessary for government to approve each of the line items of the overall budget. That introduces an extra element of government control in the operations of the voluntary agency.

The tentativeness of government funding is also a problem for voluntary agencies. Government appropriates funds only on an annual basis. There is no assurance that any funds at all will be available in the next fiscal year. These times of fiscal crisis in local and state government here in New York are an object lesson with respect to this point. Given this inevitable limitation on government funding, long-range planning is difficult, at best.

The legislation authorizing grants, especially federal grants, is time-limited. That is, appropriations are only authorized to be made for a statutorily determined period of years. Concern must therefore be addressed to the need for the Congress to reenact those authorizations periodically. This, too, inhibits long-range planning.

A third, inevitable, limitation of government funding is that it rarely gets paid promptly. For those agencies with

solid cash positions, this does not represent a serious problem. But I suspect that few agencies are in the enviable position of not having to worry about their cash flow.

And finally, government's, and I should also say foundations', preoccupation with short-term demonstration projects is a serious concern for us all. The demonstration project has often been used as a device to fund on-going programs. We probably have each been burned by the experience of the demonstration project grant term running out, only to be left with the problem of how to find the funding for the continuation of the program.

How does one counteract or minimize the impact of governmental influence over the voluntary agency when it is funding that agency's programs. I can think of only two ways.

I have already alluded to the first way. It involves being fortunate enough to have an agency with an independent fiscal position so that it can finance its own core program from philanthropic or other private funds without having to resort to government financing. Admittedly, it is the rare agency which is able to do this. After all, costs are quite high and the need for service is quite great. But it may be useful for agencies to consider whether their definition of core services is so broad that government funding is necessary to sustain these services. A redefinition of the agency's core or basic services may be one way in which to reduce the need for government funding and thereby reduce government influence. However, we all recognize that there are significant limits to the potentials of such redefinitions.

The second, and much more promising, method by which to minimize the impact of governmental influence on the operations and policies of an agency

is through the development and maintenance of a politically active lay leadership of the agency. This may mean, for example, that in addition to seeking important contributors as the lay leadership of the agency, it would be wise to seek persons who are active in the political life of the community. While we may not like it, it is a fact of life that politics plays a large role in determining the demands which government makes upon the agencies to which it provides funds.

Though I hesitate to describe it as such, there is a third, possible, way to reduce the impact of government influence by virtue of the provision of government funds. This involves placing the agency in a position where its services are at least as important to the government as the government's funds are to the agency.

This is the situation with respect to child-caring services in New York City. 85% of the children receiving foster care with public funds are receiving such care under the auspices of voluntary agencies. Though the child-caring voluntary agencies would likely not describe their position as under minimum government influence, it must be recognized that were they not supplying such a large percentage of the needed child care in the community, the government would be able to exert much more control over them than it now does. It would have public-operated child care facilities to which it could turn as an alternative. Some would argue that the concentration of these services in the voluntary community is in large measure responsible for the uneven condition of child care services in New York City. But that is the subject of another discussion. For our purposes, it should be understood that being a supplier of scarce services needed by government enables an agency to re-

duce, though not eliminate, government influence.

Implications for the Jewish Agency

I turn now from a discussion of the implications of government funding for the general voluntary agency to the implications of such funding for the Jewish agency in particular. And here, the opening question is the big question: What makes an agency Jewish? There have been many discussions dealing with this question. This will not be another extended discussion of the question. But I think it is necessary to deal with the question in order to understand that one's definition of an agency's Jewishness determines the extent to which that Jewishness is affected by government funds.

If you consider that an agency is Jewish mainly because its board or lay leadership is largely or entirely made up of Jews, then the presence of government funding by itself is not likely to affect its Jewishness. There have been some rumblings in recent years to the effect that the clients and community served by the agency should be represented on its board, if that agency is receiving government funds for the provision of services. This might have implications for the Jewish agency if the clients it is serving are themselves not Jewish. In any event, not much has been done by government about this requirement, so the question is, at the moment, moot.

If you define an agency as Jewish because its private funds are raised largely from Jews, then the mere introduction of government funds to such an agency similarly will not affect its Jewishness. As you might suspect, I do not consider either of these two characteristics as defining an agency's Jewish character.

A Jewish agency, to me, is one that meets and serves a Jewish purpose. I am

talking about the clients it serves, the programs it provides, the techniques it uses and the ends it publicly seeks. In this respect the introduction of substantial sums of government funds can have a serious impact on the agency's Jewishness.

For example, and these are not hypothetical, by any means, if the introduction of government funds requires that the agency provide service to all persons who come to it, regardless of their religious or ethnic orientation, and without being able to give priority to Jews, then the ability of an agency to focus on providing service to Jews can be adversely affected by such funding. Because government funds usually impose that requirement, persons ask, "What makes a Jewish hospital Jewish?" Or "How does one describe a Jewish child-caring agency, with only half of the children in its care being Jewish, as a Jewish agency?"

Closely related to the kinds of persons served by the Jewish agency, is the effect that I referred to earlier, of an agency being limited to a particular geographic area with respect to the services it provides. You will recall from the discussion of the catchment area concept that, depending on the area to be served by the agency, the agency is enabled to or prevented from providing its services to Jewish clients.

As a final illustration of the effect of government funds on the Jewishness of the agency and its relation to the definition that one gives to a Jewish agency, let me refer to the implications for program and techniques. Suppose a Jewish agency's day care center wants to develop a sense of cultural identity among its Jewish children. It proposes to do this, in our illustration, by focusing on the various Jewish holidays. I suspect that if government funds were paying for the cost of care for the children in that agency, government might look as-

kance at the emphasis on Jewish religious holidays.

This illustration brings me to another important point which we must be considering. Do we consider Jewish agencies to be sectarian, religious agencies, or do we consider them to be ethnic agencies? Depending on the answer to this question, and I know it is a very difficult one, will rest a good deal of the legal arguments in support of or in opposition to the use of government funds for the provision of Jewish services by Jewish agencies.

If we consider the Jewish agency to be a religious institution, we run smack into the prohibition against aid to religious institutions which the U.S. Supreme Court has said exists in the First Amendment to the United States Constitution. On the other hand, if we consider a Jewish agency as an ethnic expression of the Jewish people, then we may avoid First Amendment problems.

Currently pending in the U.S. District Court for the Southern District (New York), an important case, *Wilder V. Sugarman*, which deals, in part, with this concern. It was brought to determine whether the requirement of New York State law, that children be placed, where practicable and consistent with their best interests, in foster settings of their own religious faith, was consistent with the prohibition against "an establishment of religion" in the First Amendment. The District Court has held that such provisions do not, on their face, violate the U.S. Constitution's prohibition. But the balance of the case, in which it is to be determined whether the system is operating in a way which violates the U.S. Constitution, will test whether the agencies with ethnic or sectarian orientations are permitted to receive government funds under American Law.

We have seen, especially during the 1960's, the introduction of what has

come to be known as "ethnic" funding. In this process, communal agencies created by various ethnic groups receive government funds for their operations. While many questions have been raised about the appropriateness of this kind of funding, the questions have rarely been with respect to the *legal* implications of such funding. But when the funding is provided to the Jewish agency, legal questions begin to be raised. I am not alleging anti-Semitism; rather, I am referring to the fact that, uniquely among all peoples, the Jewish people are at once a religious *and* an ethnic group. Sometimes it is advantageous to be one or the other; and sometimes it doesn't help.

There is another basic fact of life we must consider in discussing the implications for an agency's Jewishness in receiving public funds. We must recognize that legitimate governmental concerns may not always coincide with the legitimate concerns of the Jewish community. To put this another way, the priorities for the Jewish community may not be priorities for the government.

For example, with respect to poverty, the principal concerns of the Jewish community are for the aged. For the general community, however, the problems of poverty are essentially related to race and to families and young persons. So we found that the government's efforts to deal with the problems of poverty were aimed at a different target population from that which concerned the Jewish community. Only in recent years has the government come to understand the necessity for dealing with poverty not *en masse* but with respect to the particular populations afflicted by it. Therefore, only recently have Jewish agencies begun to be able to tap public antipoverty funds. Until recently, because they were not serving the populations for whom government had a priority concern, the Jewish

agency was not able to receive public funds to provide services to the poor Jewish elderly.

The area of the care of the aged provides another illustration of the fact that legitimate government concerns may not coincide with legitimate Jewish concerns. The Jewish Institute for Geriatric Care was notified by the State Department of Health that it was not in compliance with Federal and State requirements prohibiting discrimination. The State Department contended that by virtue of the fact that it had in its name the word "Jewish" and said it was affiliated with Federation of Jewish Philanthropies of New York, by virtue of the fact that it held itself out as providing a Jewish milieu and observed the laws of Kashruth, and by virtue of the fact that its population did not reflect the racial composition of the area which it served, it was out of compliance with the civil rights laws.

At the outset it should be noted that the matter has been resolved to the satisfaction of JIGC, the State of New York, and Federation. I offer the case only as an illustration of the basic point. The government is appropriately concerned about the absence of racial or religious discrimination against persons in the programs for which it provides funds. JIGC received a mortgage loan from the State of New York for the construction of its facility. What the State ignored was the fact that the process by which individuals find their way into aged care facilities was one of self-selection and the fact that elderly Jews like to live together with other elderly Jews in settings whose milieu is consistent with their life styles. The reason the State objected to the identification of JIGC as a Jewish institution was its assumption that such an identification would discourage non-Jews from applying. That may very well be the impact of such identification. But as long as that is

not its purpose, and as long as persons are not rejected for admission, or treated differently once admitted because of their race or religion, the laws are satisfied. The matter has been satisfactorily resolved. JIGC can continue to hold itself out as Jewish, etc., and the State is satisfied that there are no racial or religiously discriminatory practices at the facility.

Accountability

I have earlier referred to concepts which allude to the notion of accountability. I have referred to influence, and to control. While these are aspects of accountability, they are not synonymous with it. In fact, a strong case can be made that influence and control have nothing to do with accountability.

The concept of accountability, particularly in the human services field, is quite simple. It consists of two questions. First, did you do what you were supposed to do pursuant to the understanding which you had with the source of the funds? Second, what effect did your work have on the persons who received services?

Though accountability, and the questions it consists of, has of late been encountered primarily in connection with funding requirements, it should not be perceived as an extra burden.

Agencies should be answering these questions in any event for the purposes of agency functioning and practice even if funding is not involved. How do you know whether to adjust what you are doing? This refers not merely to the overall program and operations of an agency, but it refers as well to individual case handling. In other words, how do you know whether to adjust your practice to meet the perceived needs of your clients?

But when it comes to funding, the notion of accountability becomes even

more critical. Particularly as funds become scarce, it will be necessary to demonstrate that what you are doing has a beneficial effect and is done in the most "cost-effective" way. That doesn't mean the cheapest way to do something; it does mean getting the most beneficial effects from the dollars you are spending. This is particularly true when you are seeking and using government funds.

Policy makers and government officials are entitled to insist that you do what you contract to do and that there be some beneficial effect from your activity. This is an entirely reasonable and rational demand for government to be making. Unless government views the purchase-of-service arrangement in this way, funds tend to be distributed according to power, according to who has the most political clout.

This is not to be a discussion about the details of accountability. Many interesting articles have been written, some of the best of which can be found in the issues of *Social Work* published during 1974. It must be noted we are referring to output, not merely input. The number of interviews should no longer be the sole measure of accountability. Whether and to what extent those interviews resulted in meeting stated objectives and goals should be the critical determination. It is difficult in many of the human services to define with precision what is success and what is not success. But unless the field undertakes that effort, persons less sympathetic to, or knowledgeable in, the human services field will set the standard for us.

What has all this got to do with Jewishness and voluntarism? Stated simply, as conditions for the use of public funds become more exacting, it may become necessary to rely in increasing ways on Jewish philanthropic dollars to be used for Jewish purposes. This may

require that we define with greater precision what are those Jewish purposes, a useful exercise in any event.

An Agenda for Consideration

The principal thrust of this presentation has been twofold. In the first place, it tries to put together all of the various considerations that must be taken into account in determining the extent to which we should be seeking government funds for the programs and services we operate. At least, if we have considered the main issues involved, we will pursue those government funds in the full knowledge of the consequences of receiving them.

And in the second place, many of the issues which are involved are quite complex and require that we spend time considering and discussing them so that we can, if possible, come to some common understandings and perceptions about them. To this end, let me suggest several issues that require further consideration.

All that I have said could rationally lead to the conclusion that we ought to be actively asserting the right of Jews to

receive publicly-subsidized services provided by Jewish agencies if those Jews are otherwise eligible to receive such publicly-subsidized services. We could be asserting this even as we assert the right of such Jewish-sponsored agencies to give preference to Jews in the provision of such services.

What would be the implications of such a posture? How would this relate to the Jewish community's traditional response to notions of discrimination and integration? How do we feel about preferential, no less exclusionary, policies of Jewish agencies?

As if those weren't hot-enough potatoes, let me suggest one more. How does an agency determine when government funds and their concomitant regulations would so alter the basic purpose and quality of its programs that it should forgo receipt of such funds? Or put another way, how does an agency decide that it will remain its current size and not expand its services when to so expand would result in a diminution of its Jewishness? Are we willing to give up principal for principle?