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**PROMISING PUBLIC PRACTICES IN PUBLIC/PRIVATE PARTNERSHIPS
THAT INVOLVE FAITH-BASED ORGANIZATIONS:
IMPLEMENTING CHARITABLE CHOICE IN CALIFORNIA**

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Promising Public Practices in Public/Private Partnerships that Involve Faith-Based Organizations: Implementing Charitable Choice in California

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In 1997, the California legislature adopted a highly decentralized model for implementing Congress's 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). The legislature created CalWORKs—a program that required each of California's fifty-eight counties to develop its own plan for moving welfare recipients into gainful employment. The state's welfare reform block grant was transformed into a cluster of county-based sub-block grants.

This strategy moved the initiative for implementing PRWORA's Charitable Choice provision to the county level. Not surprisingly, California counties have differed markedly in the models and strategies they have adopted to structure their interaction with faith-based and other nongovernmental organizations. Indeed, many of the models and strategies adopted by individual county agencies have changed radically during the past five years, exhibiting the willingness of agency administrators to learn from failures and successes. This diversity and fluidity of practice has been widely regarded in the state as an achievement—a tangible acknowledgment that California's counties have used the opportunities granted by the state legislature to respond to local demographics and to build on local institutional assets.

A negative consequence of this decentralized approach, however, has been to decrease opportunities for county welfare administrators to apply statewide perspectives in critiquing their own experiences with faith-based organizations and in thinking systematically about the changing interaction of public agencies, faith-based groups, and other nongovernmental groups within the state's reconfigured social safety net. California's decentralized approach to welfare-to-work funding, it now appears, has discouraged California's Employment Development Department (and Department of Social Services) from assuming synthesizing forms of leadership—e.g., from analyzing and distributing information about the kinds of activities that have been effective in county efforts to use public/private partnerships that involve faith-based organizations. The experimental, pilot project culture promoted by CalWORKs has unleashed energy at the local level, but it has not encouraged statewide discussion concerning what has been learned. The culture has produced successes (and failures), but it has not encouraged legislators and welfare administrators to consider the relation of these to future versions of CalWORKs legislation or to the reformulation of county CalWORKs plans. Probably California will never retreat from its commitment to county-based welfare plans, but county and state administrators could still benefit from informed, statewide analyses of what it takes to create healthy partnerships between public agencies and faith-based organizations.

This paper represents an initial (and admittedly tentative) effort to step into this void. During the past five years, the Center for Religion and Civic Culture at the University of Southern California (working with the California Council of Churches and with the Institute for Nonprofit Organization Management at the University of San Francisco) has studied California's decentralized implementation of Charitable Choice. During the past six months, it has surveyed literature related to public/faith-based practices as part of the Faith and Services Technical Education Network, funded by The Pew Charitable Trust and coordinated by the School of Social Work at Baylor University.¹ Drawing on these studies, we will describe three promising public practices that we believe have significantly expanded the capacity of California's welfare agencies and faith-based organizations to interact effectively in human service partnerships. Then we will suggest that California's attempts to build a public policy and administrative infrastructure in support of Charitable Choice have been seriously handicapped by the absence of statewide Charitable Choice regulations.²

Promising Public Practices

1. Los Angeles County's efforts to make its Internet-based distribution of human service contract opportunities more user-friendly for faith-based and other nonprofit organizations.

The Internet has increasingly become a democratizing force, especially in California's urban centers,³ in the distribution of information related to welfare-to-work contract opportunities. Information that only a few years ago was available mainly to small groups of individuals who had developed relationships with public administrators is now available to persons who have the patience and skill to search the home pages of public agency Internet sites. Within the cross-sector networking relationships envisioned by Charitable Choice, the Internet reduces hierarchies among faith-based agencies by expanding access to empowering information related to public funding.

In designing these Internet sites, however, public administrators and technicians often demonstrate that they are not prepared to deal with communication problems inherent in dealing with faith-based organizations, other nongovernmental organizations, community associations, and businesses. They are often not fully aware of the information that nongovernmental organizations want (e.g., contract award lists, which enable organizations to identify peers with whom they can consult; state, regional, county, and city indexes of open contract opportunities). They often assume knowledge of state and county bureaucracies that nongovernmental administrators do not have. Their information is often expressed in technical language that is frustrating.⁴ In short, the designs of public Internet sites often unintentionally reinforce hierarchies in the nongovernmental sector by presenting information in forms that can most easily be accessed by development officers in large, professionalized nonprofit organizations.

Significant progress has been made at the state level in California to ease the access of nongovernmental organizations to information about contracting opportunities, but employees of nongovernmental organizations must still begin with a rudimentary knowledge of departments, and agencies, and welfare-related programs. Many county websites in California post descriptions of the CalWORKs plans that they have adopted, but very few publicize current requests for proposals. Not a single county Internet site offers a comprehensive menu of links to state, county and city departments and agencies that fund community development programs.

During the last year, the Los Angeles County Faith-Based Organization Coordination Council has worked cooperatively with the Los Angeles County Office of Small Business in redesigning the County's Internet-based distribution of information about open contract opportunities for which faith-based organizations are eligible. The cooperative project is far from finished. The product of their joint labors, a new site that was launched in early 2003, makes significant advances. But the site still requires a considerable amount of knowledge concerning the departments and county agencies that contract with faith-based organizations.

Leaders of the Coordination Council regard their project as long-term. "How information gets distributed to faith communities by county human service agencies is a huge issue," says Kathy Cooper-Ledesma, the Council's co-chair. "We have to regard ourselves as a permanent advocacy group for better Internet communication with faith-based organizations in LA County."

Since the Council functions as a public organization, its Internet advocacy project can legitimately be interpreted as part of Los Angeles County's infrastructure for enhancing the County's outreach to faith-based organizations. It is a natural expression of the mission of its parent organization, the New Directions Task Force, which was formed to ensure that County departments and agencies will work together and will work with nongovernmental groups within CalWORKs.

2. Shasta County's "Community Tables" strategy for involving community stakeholders in its CalWORKs planning process.

In describing the emergent cross-sector paradigm for the delivery of human services that is encouraged by Charitable Choice, the terms "cooperation," "collaboration," "networking," and "partnership" are often used.⁵ All of these terms, however, must be interpreted in light of the fact that Charitable Choice has been designed essentially as a system of multi-sector "contracting out." "Contracting out" is valued because of its utility in serving public purposes: e.g. filling voids in the continuum of the services they offer, offering flexibility⁶, expanding access to public services, cutting costs, configuring services to meet local needs, increasing local control, and building public support. By definition, then, the partners in CalWORKs public/private partnerships cannot be equal in their power to shape contractual ties.

Community groups can, however, enjoy greater forms of equality in advisory and/or planning forums where public agencies share information with stakeholders, where alternative contractual scenarios for serving welfare-to-work participants are explored, where alternative contractual scenarios for building on community assets are considered, where nonprofits are encouraged to compete for partnership contracts, and even where conclusions are drawn about new paradigms for service delivery. The utility of these forums is established as community stakeholders are given reasons to believe that their contributions affect the design of public plans for contracting out and where public welfare administrators recognize the value of building on community assets.

Shasta County's Department of Social Services has committed itself to an aggressively collaborative approach in the planning and delivery of its CalWORKs services. The Department has created a variety of councils and task forces—"community tables," each of which, in principle, includes faith-based representatives and other community stakeholders.

The focus of each one of these community tables is quite specific. For example the Welfare Reform Management Council addresses issues involved in assisting CalWORKs participants find their ways into the county's workforce. The Shasta College CalWORKs Council focuses on the job training component of CalWORKs. The Partnership Advisory Council is responsible for making recommendations to the county's One-Stop Center and to the local Workforce Investment Board. A multi-agency Motel Task Force addresses issues related to the problem of substandard living conditions in residential motels. Restoration Enterprises advises the County's Community Corrections Center, whose programs offer services to people who have been discharged from prison.

"This sort of collaboration is habit for us now. There is no longer a protective attitude in our department," remarks Barbara McKend, Deputy Director of the Shasta County Department of Social Services. "There is no agenda, only an openness and willingness to work together." Linda Barbara, Program Director of CalWORKs' Continuing Eligibility Program, agrees: "There are no ownership issues, no turf wars [between community stakeholders and public agencies]."

3. Kern County's and the California Employment Development Department's use of open-ended CalWORKs requests for proposals, accompanied by an infrastructure of pre-and post-award services that assure strict compliance with public accountability standards.

Kern County's Department of Social Services and the California Employment Development Department have developed similar strategies for (1) encouraging faith-based and community organizations to use their imaginations in proposing where they might fit in the continuum of services for welfare-to-work participants, and (2) surrounding these organizations with an expansive array of pre- and post- award services. Their efforts--especially those of the Employment Development Department, which has greater statewide visibility—are increasingly viewed as models for "what it takes to do the job right"

in including small and middle-sized nonprofits in public human service delivery systems. But their efforts are expensive, requiring the employment of new personnel and, also, the reallocation of costly staff time to service the expansion and to assure the accountability of public/private partnerships.⁷

Kern County's Department of Human Services believes that its outreach program is based on a commonsensical idea: If welfare agencies want to use community assets to support CalWORKs participants, they should ask the leaders of community organizations about what they are best prepared to do. Their Requests for Proposals should be opened-ended, encouraging creativity in the private sector. Then they should be prepared to support community-based and faith-based organizations, many of which have never worked with government contracts before, with services that keep them on track, that promote fiscal accountability, and that tie data collection to agreed-upon performance measures.

According to Glen Basconcillo, former Program Director of the Policy and Program section of the Department of Human Services, it took nearly two years of meetings, breakfasts, lunches, community services roundtables, and "tons of phone calls" before the county's religious leaders began to tune in. Our message was always the same, Basconcillo said: "If you have an idea or even a thought as to a potential way that your organization would like to contribute or be involved in the process, we would like a proposal from you."

This was the spirit of the department's first CalWORKs Request for Proposals, issued in 1999 to more than 650 community-based organizations, school districts, faith-based organizations, and county agencies. The RFP threw out a net. It solicited proposals for "countywide collaborative approaches that focus on the transition from welfare to long-term subsidized employment by providing neighborhood and community-based services that meet the Vision, Mission, and Values of the Kern County Department of Human Services."

The RFP was far from being formless. Proposed partnerships had to relate to the county's four TANF funding objectives: (1) Provide assistance to needy families; (2) End dependence of needy families by promoting job preparation, work, and marriage; (3) Prevent and reduce out-of-wedlock pregnancies; (4) Encourage the formation and maintenance of two-parent families. Some of these objectives were controversial. Nevertheless, they were clear and specific. They provided concrete benchmarks for community leaders who were considering how their organizational assets could be applied to CalWORKs. The RFP also mandated that community-based proposals would have to specify how their programs' results were to be formulated and measured.

In order to service the pre-award and post-award phases of the contracting process, the Department of Human Services employed an additional staff member to support community-based and faith-based organizations' efforts to offer innovative CalWORKs programs. According to a department representative, CalWORKs administrators agreed that "if a contract fails, it is our fault, too."

Kern County's model for balancing open-ended requests for proposals with intensive pre- and post-award services has also been used the Governor's Office, working through the California Employment Development Department, in implementing its 2000-2001 and 2001-2002 California Community and Faith-Based Initiative⁸. The Initiative was created by the California Legislature to provide one time employment training grants to community and faith based organizations that offer employment services to the most difficult- to- serve and the hardest- to-employ. Mirroring Kern County's practice, the department invites community and faith-based organizations to use their imaginations in proposing programs. Then EDD helps these community and faith based organizations navigate their way through the bidding process. Then it helps them navigate their way through complex government contract procedures and requirements. Then it patiently interprets what government agencies are looking for, i.e., it functions as a guide for faith-based leaders who are entering unfamiliar public territory.

Currently, Employment Development Department program staff members make twice-monthly site visits to give ongoing support services to grant recipients. EDD staff members assist organizations with grant writing, development of reporting systems, accounting concepts, compliance with government regulations, and best practice techniques. In addition to administrative support, the EDD assists grantees by identifying other potential sources of government assistance, e.g., recommending grant programs from the Department of Housing and Urban Development that may be available to a homeless shelter.

The EDD monitors the performance of its contracts under the initiative partly through the twice-monthly site visits. In addition, the EDD's Compliance Review Division makes quarterly monitoring visits to each grantee. During these visits, EDD staff monitor record keeping, contract compliance and adherence to state and federal laws.

EDD program staff work with each organization to ensure compliance with strict church-state guidelines. Contract holders are advised of prohibitions against proselytizing. Grantees must maintain appropriate separation of sectarian and employment and training activities. The EDD monitors compliance to federal and state laws by attending grantee's program workshops, assisting in the development of employee handbooks and helping grantee's implement fair employment practice policies. If there are complaints against contract holders, they are referred to the EDD's Compliance Review Division or Audit Evaluation Division.

California's Unfulfilled Need for Charitable Choice Regulations

Each of these models for expanding public/private partnerships in California has been created within a statewide environment where state and county welfare administrators and county contract officers repeatedly express misgivings about virtually any form of collaboration with faith-based organizations. Their misgivings are understandable. During the past five years, they have been subjected

to a drumbeat of arguments by civil rights organizations and separationist advocates, who claim that PRWORA's Charitable Choice provision itself violates the Establishment Clause. They have been embarrassed by media reports concerning programs in which faith-based organizations have allegedly used public contracts to proselytize. They have witnessed the victory of the American Jewish Congress in its widely publicized First Amendment lawsuit against the Employment Development Department's implementation of the first version of its California Faith-Based Initiative.

Three county welfare administrators, in interviews with Center for Religion and Civic Culture researchers, observed that the language of Congress's Charitable Choice provision may in fact have encouraged behaviors in faith-based service programs that justify wariness. "There are internal contradictions or tensions in Charitable Choice," one administrator argued. "On the one hand, Charitable Choice says that federal dollars can't be used to advance religion. On the other hand, it tells religious organizations that they don't have to give up their own religious identities when they contact with us. Well, their identities usually involve advancing their faiths." They are being encouraged to seek loopholes in the law—faith-based activities that, narrowly regarded, can be interpreted as voluntary on the part of clients.

In this context, statewide Charitable Choice regulations have been urgently needed. Regulations could have provided faith-based organizations and public agencies with clear-cut church-state directives. They could have provided political and Constitutional legitimacy to the kinds of partnerships envisioned by Charitable Choice. They could have created a comfort zone for county contract officers. They could have provided a structure to guide the activities of welfare agencies in monitoring what occurs within contracts awarded to faith-based organizations.

In 1999, the California state legislature directed the Department of Social Services to formulate Charitable Choice regulations, but, after inviting public comment on a set of draft regulations, the Department never succeeded in producing a final version. The absence of regulations is a serious deficit in the infrastructure that is being created in California to implement Charitable Choice.

¹ The Institute for Nonprofit Organization Management, under a contract from The James Irvine Foundation, conducted a statewide telephone survey of approximately 1100 congregations and faith-related nonprofits concerning their willingness and capacity to compete for CalWORKs human service contracts. The Institute's report was distributed in 1999.

² There is a dearth of theoretical material related to public practices in Public/Private Partnerships involving Faith-Based Organizations. Evaluations of successes and failures of public/private partnerships have generally focused on city, county, state or federal entities and their relationship with for-profit corporations. See, for example, *American Behavioral Scientist* (1999, Vol. 43, no 1).

³ Our study of Shasta County's implementation of Charitable Choice suggests that in small rural counties, whose populations are relatively homogeneous, the importance of the Internet in creating access to information about contract opportunities for faith-based organizations may be reduced. It appears that public officials successfully distribute information through established ecumenical and interfaith councils, whose leaders regularly interact with public officials in a variety of civic and social settings.

⁴ Faith-based program administrators often express frustration concerning the absence of rhetoric, for example, related to "serving the poor" or "justice" in requests for proposals. In short, there can be a chasm between public rhetoric that is preoccupied with accountability and results, and faith-based rhetoric that tends to be preoccupied with mission, relationships, flexibility, and justice.

⁵ These terms assume that, within contracts awarded in programs affected by Charitable Choice, public agencies and nongovernmental organizations maintain their independence in serving their respective constituencies. This fact suggests that a great deal of time and effort may be required in negotiating the terms of their collaboration. See T. Hayes (1996). *Management Control and Accountability in Nonprofit Voluntary Organizations*. Brookfield, Vt.: Ashgate.

Partnering may, in fact, significantly support the missions of nongovernmental agencies by establishing leadership and expertise, or even to assure their survival. See J. Arsenault (1998). *Forging Nonprofit Alliances*. San Francisco: Jossey-Bass Publishers.

⁶ "Contracting out" assures flexibility, in the sense that contract partnerships continue for finite periods of time, assuring that their utility can be periodically reconsidered.

⁷ We are not aware of any attempts to develop cost/benefit analyses related to public/private partnerships by Kern County Department of Social Services administrators. Presumably the costs associated with staffing the department's community outreach are not at a level to seriously detract from ongoing government services, and presumably community outreach is regarded as a high priority in the department's CalWORKs strategies.

⁸ The California Community and Faith-Based Initiative has been funded as a line item within California's annual operating budget. Thus, it is subject to the California Constitution's strict church-state rules, not to the Charitable Choice provision of Congress's 1996 welfare reform legislation.