Measuring Poverty: A New Approach

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Each year since the 1960s the United States Census Bureau has announced an "official" poverty line, determined the number of people whose incomes are below the line, and calculated the poverty rate — the percentage of the entire population that falls below the line.[1] The poverty line was set in 1963 as an estimate of the minimum income necessary for subsistence, and since 1969 it has been adjusted annually for inflation. Except for adjustments for inflation, the poverty line has remained unchanged for more than twenty-five years, but criticism has been growing. Some argue that the original method of calculating the line is faulty, while others criticize the method of adjusting the line for inflation.[2]

These criticisms have drawn increased academic and political attention to the problem of whether to adjust the poverty line, and if so, how.[3] In 1992 the Joint Economic Committee of Congress funded a nonpartisan, scientific study of the poverty line. The National Research Council convened the Panel on Poverty and Family Assistance which studied the current poverty line and in 1995 made recommendations for improvements (pp. xv-xvi). These recommendations are fully described and defended in *Measuring Poverty*.[4]

1. *See* BUREAU OF THE CENSUS, U.S. DEPARTMENT OF COMMERCE, POVERTY IN THE UNITED STATES: 1992 (U.S. Government Printing Office Series No. P60-185, 1993) (setting the official 1992 poverty line for a family of four at $14,335, the number of persons below the poverty line at 36.9 million, and the poverty rate at 14.5%); Elizabeth A. Bowman, *Who is Poor? Family of Four Making Less Than $15,141*, DETROIT NEWS, July 24, 1995, at A4 (reporting that the 1994 poverty line for a family of four was $15,141); Jonathan Eig, *Economy's Climb Hasn't Aided the Poor, Study Finds*, DALLAS MORNING NEWS, Oct. 7, 1994, at A1 (reporting that the official 1993 poverty line for a family of four was $14,763).

2. Some critics have claimed that the poverty line overcounts the nation's poor. *See, e.g.*, Robert Rector, *Poverty in America: Census Overstates the Problem*, CHI. TRIB., Sept. 30, 1991, at C17; *A New Definition of Poverty Needed*, TAMPA TRIB., May 15, 1995, at 6. Others have argued that the line undercounts the nation's poor. *See, e.g.*, Mike Meyers, *The Poor are Among us in Greater Numbers than Officials Care to Admit*, STAR TRIB. Minneapolis-St. Paul), May 12, 1995, at D2. Other critiques target the continued use of the original poverty calculation despite societal changes and the mode of yearly adjustment. *See* PATRICIA RUGGLES, DRAWING THE LINE (1990); Constance F. Citro & Robert T. Michael, *Poor Excuse for a Yardstick, How to Fix Our Outdated Tool for Measuring Poverty*, WASH. POST, Oct. 15, 1995, at C5.

3. *See, e.g.*, RUGGLES, *supra* note 2.

4. The viability of the changes suggested by the Panel are in serious doubt given the present political climate. *See* Wayne Woodlief, *New Poverty Rule Could Hit Politics*, BOSTON HERALD, May 2, 1995, at 23.

To understand *Measuring Poverty* it is necessary to understand the political and academic climate from which it arose. For years academics had been criticizing the official poverty line and suggesting ways to improve or replace it. Prior to 1992, the issue received very little political attention, and the academics were left to create their own poverty measures, or to make their case in journal articles and books. The election of President Clinton, however, offered a new hope for revision of the poverty line. Not only was President Clinton a Democrat, he was also a policy wonk who enjoyed arcane debates over statistical issues. When Congress appropriated the funds for the Panel it looked as if there might be real change, or at least hearings on the Panel's proposals. This spirit of hope explains why *Measuring Poverty* is so far-reaching and almost radical in its suggested reforms. A Panel of highly touted academics[5] finally had their shot, and they left no stone unturned.

The project's results are mixed. Some of the Panel's suggestions would vastly improve the accuracy of the present poverty measure and are almost statistically indisputable. Others would result in a fundamental rethinking of what it means to be "poor." Unfortunately for the Panel the second, more daring category of changes seemingly has doomed the first category of truly helpful changes. The Panel's suggestions might have stood a chance in 1992, but the Congressional elections of 1994 doomed both the Panel's radical and reasonable proposals alike.

This is not to say that *Measuring Poverty* is not a worthwhile project. The Panel was surely correct that there are serious flaws in the current poverty line, and *Measuring Poverty* is easily the most comprehensive and authoritative work to tackle these issues. This Book Notice argues that the Panel was correct to recommend changes in the current poverty line, but that the Panel's suggestions overreach in several crucial areas. Part I describes the current poverty line and argues that the Panel is correct in concluding that it should be changed. Part II details the Panel's proposals and argues that because the Panel's line is not predicated on material need and because the Panel failed to set a level for their proposed line, the Panel's worthy attempt to remedy the present poverty line's problems fails.

I. The Present Poverty Line

The first decision the Panel faced was whether the present poverty line needed alteration. This section describes the origins of the present line and various criticisms of it. Section I.A discusses the

5. The thirteen-member panel is a veritable Who's Who of poverty researchers, including distinguished professors from the Woodrow Wilson School, the Kennedy School, Stanford, University of Wisconsin, and the University of Michigan. *See* p. iii.

origins of the official poverty line and the methods for adjusting the line over time. Section I.B assesses the strengths of the current line, and section I.C outlines the weaknesses of the current line.

A. *Origins of the Official Poverty Line*

In 1963 Mollie Orshansky, an analyst at the Social Security Administration, created what eventually became the government's official poverty line. She began her calculation with the dollar amount needed to purchase the "economy food plan," a nutritional plan that the U.S. Department of Agriculture had designed in 1962 for temporary or emergency use when funds are low.[6] This economy food plan was meant to provide the least expensive diet that was still minimally nutritional. In order to include budgetary items beyond food, Ms. Orshansky multiplied by three the dollar amount needed to purchase the economy plan (p. 163). This multiplier was based on a 1955 USDA survey which found that families of three or more persons spent, on average, about one-third of their after-tax income on food.[7] In 1963 the threshold for two adults and two children was $3,100. In 1965 Orshansky expanded and adjusted her poverty measure to encompass virtually all family sizes,[8] and the poverty line was adopted by the Office of Economic Opportunity for statistical and program-planning purposes. The base poverty line for a family of four (two adults and two children) was adjusted for larger and smaller families and for the elderly.[9]

In 1969 the thresholds were adopted by all federal agencies as the official poverty line.[10] The Bureau also changed how the line was adjusted each year for inflation. Prior to 1969 the line had been adjusted yearly according to the USDA's new cost estimates for the economy food plan. After 1969 the line was adjusted according to the Consumer Price Index (CPI).[11] The CPI tracks inflation for all goods, not only food. Thus, connecting the poverty threshold to the

6. *See* Mollie Orshansky, *Children of the Poor,* Soc. Sec. Bull., July 1963, at 3, 4-10.

7. Orshansky, *supra* note 6, at 8. Note that the one-third average was drawn from all families, not only poor families.

8. *See* Mollie Orshansky, *Who's Who Among the Poor: A Demographic View of Poverty,* Soc. Sec. Bull., July 1965, at 3, 3.

9. *See* pp. 162-63. This adjustment of the poverty line has been viewed as the most important innovation in Orshansky's work. *See* Ruggles, *supra* note 2, at 4. Prior efforts at measuring the needs of the poor did not fine-tune according to family size. For example, the 1964 and 1965 versions of the *Economic Report of the President* used a flat poverty line of $3,000 for any family of two or more persons. Obviously, such a line becomes less accurate as family size and composition vary. *See* President of the United States, Economic Report of the President 112 (1965); President of the United States, Economic Report of the President 58 (1964).

10. *See* Michael Morris & John B. Williamson, Poverty and Public Policy 15 (1986).

11. *See* Robert H. Haveman, Poverty Policy and Poverty Research 54 (1987). There were other minor adjustments made in 1969. Prior to 1969 the poverty line for persons

CPI froze the poverty line in real dollars from 1969 to the present,[12] and the official poverty line has remained essentially unchanged since it was first adopted in 1965.

B. *Strengths of the Current Poverty Line*

This section argues that the current poverty line has considerable strengths, and that given its longevity any alteration must be supported by strong arguments. Virtually all of the commentary on the current poverty line seems to begin with the premise that the line must be adjusted.[13] Despite its weaknesses, the present line indeed may be adequate. It frequently is used as a research tool,[14] and has been used as a benchmark to measure the effect[15] and potential effect[16] of government programs.

As Henry J. Aaron, Senior Fellow at the Brookings Institute, has stated, any flaws in creating or updating the line are "irrelevant." What matters is that the government chose a subsistence level and has adjusted it consistently over time.[17] The current poverty line represents a longstanding assessment of economic need. This longevity offers two advantages. First, the fact that the line has remained unchanged fosters public and governmental understanding of the line and confidence in its validity. Changing the line's level or measurement might undermine confidence in it because it would seem malleable and nonobjective. Because one of the uses of the poverty line is to assess the failure or success of government antipoverty programs, it is crucial that the public have confidence in the line. Furthermore, because there has been insufficient impetus thus far to change the line it is unclear why or how a new line would work better. Second, a longstanding line is statistically preferable because it allows for consistent comparisons over time by the

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who lived on farms was set at 70% of the general populace. In 1969 this figure was set at 85%. In 1981 the farm thresholds were dropped altogether. *See* pp. 163–64.

12. This statement assumes that the CPI is an accurate statement of inflation. *See infra* section I.C.2 for arguments that it is not.

13. Replacing the official poverty line is Recommendation 1.1 in *Measuring Poverty* and occurs on page 4 of a nearly 450-page report. Other studies similarly dismiss the Orshansky line with little ado. *See, e.g.*, Marilyn Moon & Eugene Smolensky, *Introduction* to IMPROVING MEASURES OF ECONOMIC WELL-BEING 1 (Marilyn Moon & Eugene Smolensky eds., 1977) (deciding in the introduction that an economic utility view is superior to the official poverty measure); Trudi J. Renwick & Barbara R. Bergmann, *A Budget-Based Definition of Poverty*, 28 J. HUM. RESOURCES 1, 1–2 (1993) (dismissing the official line in two pages).

14. For example, Plotnick and Skidmore used the official poverty line in their book assessing the efficacy of antipoverty programs. *See* ROBERT D. PLOTNICK & FELICITY SKIDMORE, PROGRESS AGAINST POVERTY 42 (1975).

15. *See* Barbara Vobejda, *U.S. Reports Decline in Poor; Decrease Is First Since 1989*, WASH. POST, Oct. 6, 1995, at A1.

16. *See* James Brooke, *Indians Hit Particularly Hard by U.S. Budget Cutbacks*, DALLAS MORNING NEWS, Oct. 22, 1995, at A12.

17. *See* Julie Kosterlitz, *Measuring Misery*, 22 NATL. J. 1892, 1896 (1990).

number and the percentage of the population below the poverty line.[18]

Another strength of the current line is that it is based on an expert finding of need. Orshansky's use of the economy food plan represents an attempt to set the line of need according to expert analysis, which presumably fosters public confidence.

Last, the fact that the official poverty line exists at all is a significant achievement. Prior to the adoption of an official poverty line, there was no accepted definition of poverty, and little possibility for research or temporal comparisons.[19] Despite the numerous criticisms of the line, its effect as a policymaking tool and as a baseline for discussions of poverty cannot be underestimated.[20]

C. *Criticisms of the Current Line*

This section catalogues the criticisms of the current poverty line and argues that they are largely valid. The criticisms of the present poverty line divide into three categories: criticisms of the line's original formulation, criticisms of the way the line is adjusted for inflation, and criticisms of the way income is defined. Section I.C.1 discusses criticisms of the original calculation of the poverty line, section I.C.2 describes the criticisms of the line's yearly adjustments, and section I.C.3 deals with the measure of income.

1. *Criticisms of Orshanky's Methods*

The criticisms of Orshansky's original method are based on the use of the economy food plan as a basis, the multiplication rate used, and the uncounted effect of regional price variations on the poverty line.

The economy food plan originally was proposed as a temporary diet for families who were short of funds. The plan never was meant or tested for long-term consumption, and therefore its use as a baseline for food consumption for families below the poverty line for an indeterminate period is questionable.[21] Furthermore, by the

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18. *See* Vobejda, *supra* note 15, at A1 (reporting that 1.2 million fewer Americans lived below the poverty line in 1994, and a drop in the poverty percentage from 15.1% to 14.5%).

19. For example, President Johnson's 1964 *Economic Report of the President* resorted to an arbitrary cut-off for counting the poor: any family of two or more persons who earned under $3,000 a year was considered poor. *See* HAVEMAN, *supra* note 11, at 53-54.

20. In 1969 James Tobin recognized exactly this strength:

> The federal war on poverty, whatever else it has accomplished, has established an official measure of the prevalence of poverty in the United States. Adoption of a specific quantitative measure, however arbitrary and debatable, will have durable and far-reaching political consequences. Administrations will be judged by their success or failure in reducing the officially measured prevalence of poverty.

James Tobin, *Raising the Incomes of the Poor*, *in* AGENDA FOR THE NATION 77, 83 (Kermit Gordon ed., 1970).

21. *See* MORRIS & WILLIAMSON, *supra* note 10, at 18.

time the poverty line was accepted officially in 1969, the food plan was outdated because of changes in nutritional expertise, taste, and food-purchase options.[22]

The possible errors arising from the use of the food plan may have been compounded by Orshansky's selection of three as her multiplier. Orshansky multiplied the food plan allowance by three because a 1955 study had shown that the typical family spent one-third of their income on food. Some have argued that this multiplier overstates poverty because a *poor* family, as opposed to the typical family, will spend a much greater percentage of its income on food, perhaps up to sixty percent. As such, it has been argued that a multiplier closer to two would have been more accurate.[23]

Others argue that the multiplier understated poverty because of a rise in living standards between 1955 and the 1960s. By the time Orshansky set her multiplier, there was statistical evidence that a typical family spent closer to one-fourth of their budget on food, which would result in a multiplier closer to four.[24]

Last, the Orshansky line has been criticized for its failure to account for regional variations in living costs.[25] Therefore, it is likely that the poverty line was set too low in New York City, where all costs from housing to food are higher, and too high in Mississippi.[26]

22. *See* HAVEMAN, *supra* note 11, at 55.

23. *See* ROSE FRIEDMAN, POVERTY: DEFINITION AND PERSPECTIVE (1965).

24. *See* RUGGLES, *supra* note 2, at 36. These criticisms raise interesting questions about how we conceptualize the poor in setting a poverty line. The food plan allowance had to be supplemented to account for other possible expenditures, such as shelter or clothing. Orshansky decided to use statistics based on a typical family reasoning that if a poor family could limit their food consumption to the emergency food plan, they also could pare back the rest of their expenditures, but still in proportion to the expenditures of a typical family. *See* RUGGLES, *supra* note 2, at 36. This approach conceives of the poverty line in terms of the typical family. Note that this is a controversial assumption: "The way the poverty definition was developed, moreover, presupposed that the poor do or should spend proportionally as much on clothing, shelter, travel, and presumably opera tickets as the middle class. Obviously that was absurd." STUART BUTLER & ANNA KONDRATAS, OUT OF THE POVERTY TRAP 44 (1987). Query whether it is really that simple. Orshansky counted the emergency food plan as the absolute lowest possible expenditure on food. She chose to shrink the rest of a typical family's budget by using the food plan as the baseline. The above view seems to ignore the fact that the food plan itself represented a significant contraction of expenditures — to subsistence level. It makes sense, therefore, to apply this same standard of shrinkage to the typical family budget. To use a typical poor family to determine the multiplier ignores the fact that by definition a poor family may be spending a substandard amount on shelter, clothing, food, or on everything.

The question, therefore, is to what extent a poverty line should reference itself to society as a whole, and to what extent it should try to be self-referential.

25. *See* Harrell R. Rodgers, Jr., *Limiting Poverty by Design: The Official Measure of Poverty, in* APPLIED POVERTY RESEARCH 49, 55 (1984). *See also* RICHARD L. MORRILL & ERNEST H. WOHLENBERG, THE GEOGRAPHY OF POVERTY IN THE UNITED STATES 7-8 (1971) (noting the difficulty of applying the official poverty measure because it does not reflect disparate regional costs of living).

26. Harold W. Watts, *The Iso-Prop Index: An Approach to the Determination of Differential Poverty Income Thresholds, in* IMPROVING MEASURES OF ECONOMIC WELL-BEING, *supra* note 13, at 185, 187 (creating an index that adjusts the Orshansky line by region).

These criticisms seem valid. Shaky factual assumptions determined the original poverty line formulation, and the statistical method used is outdated. As such, the line may be inaccurate.

2. *Adjusting for Inflation*

No one has criticized the general idea that the poverty line be adjusted to account for inflation over time. Obviously, three thousand dollars buys less now than it did in 1963. The criticisms have centered around the method of adjustment. Some have argued that the use of the CPI overstates poverty because the CPI in general overstates inflation. Others have stated that the CPI could distort the poverty line over time, because the CPI does not focus solely on food items, the basis of the poverty line, or even solely on necessities.

At first the poverty line was meant to be adjusted according to the original formula. Orshansky suggested recalculating the food plan to account for new nutritional and price effects, and resetting the multiplier according to new demographic evidence (p. 110). This method of adjustment clearly would have approximated best the theory of the original line. When the line became official, however, the CPI was adopted as the basis for adjustment.

Some have argued that this adjustment method overstates poverty because of general flaws in the CPI.[27] The clearest error occurred in the late 1970s due to the CPI's formula for housing costs. The CPI used home sales to measure housing costs, so rapid rises in real estate prices overstated the inflation rate for the majority of persons who either rented or continued living in a house they already owned.[28] A new measure of housing costs was adopted in 1983, but not retroactively, so the current poverty line contains whatever upward bias occurred before 1983.[29]

27. *See* BUTLER & KONDRATAS, *supra* note 24, at 45.

28. *See* RUGGLES, *supra* note 2, at 42.

29. Recently, economists have argued that other aspects of the CPI overstate inflation. *See, e.g.*, Daniel P. Moynihan, *It's Not News to Experts That the Consumer Price Index Is Inflated*, N.Y. TIMES, Oct. 6, 1995, at A30; Herbert Stein, *The Consumer Price Index: Servant or Master?*, WALL ST. J., Nov. 1, 1995, at A14. A nonpartisan panel of five economists recently reported five main problems that led to the overstatement. *See* Edward J. Spar, *Pin Wheels*, COUNCIL PROF. ASSNS. ON FED. STAT. (Council of Professional Assns. on Fed. Statistics), October 1995 (describing the committee's report in detail); Robert D. Hershey, Jr., *Panel Sees Corrected Price Index as a Deficit Cutter*, N.Y. TIMES, Sept. 15, 1995, at A30. First, the CPI does not account for consumers who change their buying patterns when prices for individual items rise. For example, if the price of orange juice goes up, consumers are likely to substitute apple juice. Second, the CPI does not measure accurately the effect of sales made at discount outlets. Third, there is a "quality change bias" because the measure does not take into account (upward) changes in quality over the years. For example, the CPI only measures the cost of similar air conditioners from year to year; it cannot measure the fact that air conditioners work significantly better and require fewer repairs year by year. Fourth, new products have not been added promptly to the CPI, so the price of, say, Windows 95 would not be included until a significant time had passed. Last, there is a "formula" bias

Others have argued that the use of the CPI may distort the poverty line because the cost of food and other necessities may rise at a different rate than the CPI as a whole.[30] Research has shown, however, that the CPI does not differ substantially from a measure focusing solely on food or solely on necessities (p. 124).

Last, the use of the CPI has been criticized because it is connected to the rise in prices of goods and not to real income.[31] Because real income tends to grow faster than inflation, the standard of living for all families, including poor families, may outpace inflation as families buy more and different goods. This rise in living standards may affect how people conceive of a minimally adequate level of subsistence. In essence, this criticism questions why 1960s consumption patterns should be set in stone and adjusted only for inflation, when the consumption patterns of a poor family in the 1990s may be radically different.

The use of the CPI to adjust for inflation does seem to be somewhat misguided. An inflation measure that focused on a core group of necessities would avoid many of the systematic problems with the CPI.[32] Further, despite the fact that the CPI has not differed substantially from such a measure over time, it might at some point, so a narrower measure of inflation seems in order.

3. *Criticism of the CPS*

The decision of how to create and update a poverty measure is only half of the equation. The other half is how to measure family income. The decision of what to include as income likely will define who is counted as poor.

The poor are counted by the Income Supplement to the Census Bureau's Current Population Survey (CPS). Each year the CPS is administered to approximately 60,000 households to determine their pretax income levels. These figures then are used to estimate the poverty rate and the number of persons below the poverty line.[33] Income itself is defined as "pre-tax money income only."[34]

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which results from grouping thousands of individual items into relatively few categories for calculations.

30. *See* MORRIS & WILLIAMSON, *supra* note 10, at 20.

31. *See* HAVEMAN, *supra* note 11, at 55.

32. Such a measure would at least mitigate a number of the objections to the CPI. For example, a measure that focused on necessities likely would suffer little bias because of the introduction of new products, because such products are unlikely to be necessities. Such a measure also could eliminate some formula bias, because fewer products would be involved. Last, the bias that arises from substitution could be mitigated because of the narrow range of substitutes for necessities. A person is unlikely to substitute a different product for minimally adequate housing if rental prices rise.

33. *See* BUREAU OF THE CENSUS, *supra* note 1, at xxii.

34. *See* BUREAU OF THE CENSUS, *supra* note 1, at vii. Examples of pre-tax money income are: wages, Social Security, Supplemental Security Income, welfare, dividends, interest on

Noncash, in-kind benefits such as Food Stamps, Medicaid, housing vouchers, and employer-provided health care are not included.[35]

The most basic criticism of using the CPS is that it measures pretax income, and the poverty line was calculated based on posttax spending patterns.[36] The CPS originally was used because there was no accurate measure of posttax income.[37] As a result, the use of a pretax income measure likely understates the number of working poor, whose posttax income is likely to be lower than the CPS indicates.[38]

The most widely stated criticism of the CPS is that in-kind transfers are not included in income.[39] When the poverty threshold was created, the value of in-kind services to the poor was practically zero, but over the years this amount has increased significantly. Furthermore, the CPS does not measure assets in its calculations, only income.[40]

Using the CPS to measure poverty at all may be an error. If a suitable measure could be found, it would be superior to consider

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savings, unemployment compensation, and pensions. *See* MORRIS & WILLIAMSON, *supra* note 10, at 15-16. Capital gains are excluded from income. *See* BUREAU OF THE CENSUS, *supra* note 1, at vii.

35. *See* BUREAU OF THE CENSUS, *supra* note 1, at vii.

36. *See* RICHARD H. ROPERS, PERSISTENT POVERTY 38 (1991).

37. *See* Peter B. Edelman, *The Next Century of Our Constitution: Rethinking Our Duty to the Poor,* 39 HASTINGS L.J. 1, 9 n.22 (1987).

38. The CPS also has systematic difficulties. The CPS does not directly count the incomes or numbers of the poor; it uses a sample and approximates. *See* BUTLER & KONDRATAS, *supra* note 24, at 45 ("Moreover, no one actually counts the number of poor people."). This sample is skewed potentially because of two types of undercounts. The first is the general demographic problem of missing some households altogether, and missing persons within sample households. *See* BUREAU OF THE CENSUS, *supra* note 1, at vii-viii. The CPS misses certain households altogether because the CPS sample is chosen from the rolls of the most recent census, which itself contains a significant undercount. *See* NATIONAL RESEARCH COUNCIL, MODERNIZING THE U.S. CENSUS 31 (1995). This general undercoverage may result in an understatement of the number of the poor because minorities and the poor are the groups most likely to be undercounted. *See* Barbara E. Bryant, Decision of the Director of the Bureau of the Census on Whether to Use Information from the 1990 Post-Enumeration Survey (PES) to Adjust the Base of the Intercensional Population Estimates Produced by the Bureau of the Census, 58 Fed. Reg. 69, 70 (1993); JOHN B. LANSING ET AL., WORKING PAPERS ON SURVEY RESEARCH IN POVERTY AREAS (1971).

39. *See, e.g.,* HAVEMAN, *supra* note 11, at 55; ROPERS, *supra* note 36, at 96; William H. Simon, *Rights and Redistribution in the Welfare System,* 38 STAN. L. REV. 1431, 1461 n.88 (1986); Timothy M. Smeeding, *The Anti-Poverty Effect of In-Kind Transfers: A Good Idea Gone Too Far, in* APPLIED POVERTY RESEARCH 77 (Richard Goldstein & Stephen M. Sachs eds., 1984).

For a discussion of how to value in-kind transfers, see Eugene Smolensky et al., *In-Kind Transfers and the Size Distribution of Income, in* IMPROVING MEASURES OF ECONOMIC WELL-BEING, *supra* note 13, at 131.

40. *See* BUTLER & KONDRATAS, *supra* note 24, at 46 ("A retired couple owning a million-dollar house, a luxury car, and a bulging portfolio of stocks and bonds would be considered officially poor if their annual cash income were sufficiently low."). For a fuller discussion of this issue, see THE INSTITUTE FOR RESEARCH ON POVERTY, THE TREATMENT OF ASSETS AND INCOME FROM ASSETS IN INCOME-CONDITIONED BENEFIT PROGRAMS (1977).

posttax income rather than pretax, because of the prejudicial effect measuring pretax income has on the working poor. On the other hand, ignoring the effect of in-kind transfers on income distorts the poverty count.[41]

Despite the multiple strengths of the current line, the valid criticisms outlined above counsel for a change. First, as the criticisms of the current line grow, its utility as a baseline for judging policy shrinks. It cannot be argued that because the line is simple to understand, or familiar, that it should remain unchanged. If the line has widely acknowledged difficulties, it should be adjusted, or its utility is jeopardized. Second, the poverty line should be statistically defensible. It is in this category that the present line falls short. There are indefensible errors in the computation of the line, in the yearly adjustment of the line, and in the measurement of income. These errors lessen the line's utility as a statistical and policy measure and outweigh the strengths of longevity.

II. The Panel on Poverty's Attempt at Reform

This Part focuses on the proposals to remedy these weaknesses made by the Panel in *Measuring Poverty.* This Part argues that despite positive aspects of the proposed changes, the Panel's suggestions are unacceptable for use as an official poverty line. The Panel bases its project on a definition of poverty "as economic deprivation" (p. 19). But the Panel's suggestions do not always comport with that definition. Section II.A argues that the Panel's focus on material need is correct, but the method of setting and adjusting the proposed poverty line does not accord with their stated approach. Section II.B discusses the Panel's suggestions for reforming the calculation of income and argues that, excepting their treatment of medical care, the adjustments are helpful.

A. *Specific Changes to the Measure*

The Panel's proposals for adjusting the poverty line can be broken into two categories: changes to the calculation and adjustment of the line and changes to the definition and measurement of in-

41. One sensible argument against including in-kind transfers is that once they are included they might push a recipient above the poverty line and make him ineligible for the benefit. *See* Ropers, *supra* note 36, at 39-40. Another difficulty is in placing a value on free legal services, for example. A poor person might forego legal representation altogether if it was not free, so is it fair to impute full market value for legal services? This question becomes especially knotty when the inclusion of in-kind benefits may push the recipient above the poverty line and beyond eligibility for other programs, such as food stamps.

These arguments do not address the accuracy of the poverty count itself, however, only applications of the count to government programs. Therefore, these arguments may militate for different eligibility standards for food stamps or other in-kind benefits, but they do not prove that ignoring in-kind benefits makes the poverty count more accurate.

come. This section deals with the Panel's proposal for creating and adjusting a new poverty line. Section II.A.1 argues that the Panel's choice to focus on three basic necessities as a basis for its poverty measure is sensible. Section II.A.2 argues that the Panel's recommendations for setting and adjusting the line do not accord with their own necessity-based approach.

1. *Food, Clothing, and Shelter*

The Panel chose to begin their suggested revisions of the current poverty line by creating a new budget-based standard derived from a combination of "food, clothing, shelter (including utilities), and a small additional amount to allow for other needs (e.g., household supplies, personal care, non-work-related transportation)" (p. 40). The clearest strength of this approach is that it focuses on commodities that are accepted widely as necessities. This incorporates the normative appeal of the Orshansky line's use of food, the most basic human need, but eliminates the uncertain effect of a large multiplier.[42]

Furthermore, the Orshansky line has been criticized persuasively for using a multiplier based on the spending patterns of all families to create a line of minimum subsistence. The Panel's approach offers the opportunity to create an actual line of minimum subsistence from specific areas of basic spending. Such a line would be clear and believable to the public.

2. *Setting and Adjusting the Threshold*

This section argues that the Panel's methods of setting and adjusting the threshold do not accord with the Panel's emphasis on actual need.

The Panel's proposed method for setting the poverty line involves first establishing the median expenditures for *all* two-adult/two-child families on food, clothing and shelter (p. 105). For each of the three categories a certain percentage of the median expenditures is used to set a subsistence level. The sum of these three percentage calculations forms the basis of the new poverty line. The Panel leaves it to Congress to set the percentage levels. An additional "other" category is created by applying a small multiplier to

42. The Panel also made several suggestions about reformulating the equivalence scales to account for family size and geography. *See* pp. 159-201. These proposals are less controversial and are undoubtedly necessary.

Adjustment for geography is a necessity. The Panel recommends adjusting only for the price of housing because of the difficulty of assessing interarea price differences for other items. According to Sheldon Danzinger, even this alteration has little chance of adoption by Congress because it would lower the poverty rate in southern states. Interview with Sheldon Danzinger, Professor, School of Public Policy, University of Michigan, Ann Arbor, MI (Jan. 15, 1996).

the sum of the three basic categories (p. 104). The total of the "other" and food, clothing, and shelter is the proposed poverty line.

The Panel proposes that this line not be fixed and then adjusted for inflation, as the Orshansky line was. Instead, the line is to be recalculated each year according to the same percentage rates of median expenditures on food, clothing, and shelter. This avoids the difficult problem of periodic reassessment in light of changes in consumption; the line resets itself every year. Therefore, the frozen quality of the Orshansky line is repaired.

The suggested line is essentially a relative line: the poverty line is set in reference to a percentage of the median expenditures on certain items. The Orshansky line is what is known as an *absolute* poverty line: it is a set dollar amount that is adjusted over time for inflation. A *relative* poverty line is set and adjusted according to society as a whole. Because the Panel's line is adjusted according to changes in societal consumption patterns it is a *relative* poverty line.

The Panel makes clear that this is a conscious choice to avoid reliance on experts and to avoid usurping the legislative role by setting the poverty line itself. The Panel argues that because there is no "neutral" or "scientific" way to set a subsistence level, even for basic items such as food, clothing, or shelter, the decision of how to set the line is inherently political and therefore an inappropriate decision to leave to "experts." "[J]udgment inevitably enters into the determination of a poverty level for any basic need, whether food, housing or anything else. We believe it best if these judgments are introduced explicitly and not with an apparent reliance on experts" (p. 104). Thus, the Panel chose to leave the setting of an actual line to Congress, rather than appeal to expert opinions on subsistence as Orshansky did.

The Panel is inconsistent, however, when it asserts that because there can be no "objective" expert decision on what is minimum subsistence, it cannot set a line or rely on experts. Setting the actual levels is the last in a series of nonneutral decisions, and the only one the Panel leaves to Congress. The decision of what to count in a poverty line is no less neutral than how to set a poverty line, and the decision to use a relative, rather than an absolute line, is especially difficult to defend from a "scientific" point of view.

Further, the Panel ignores the fact that Congress charged it with the responsibility to make specific recommendations. The history of the present line demonstrates that the process of setting a line is exactly the type of complex and controversial problem that is ill suited to legislative change. The original poverty line was set by a government expert and adopted by an administrative agency, not Congress. Furthermore, in the face of growing criticism the line has remained essentially unchanged for decades. Given this, the Panel should not have hesitated to take up Congress's invitation to set a line.

The line that the Panel suggests certainly will be more sensitive to changes in the standard of living and changing consumption patterns. The Panel ignores the question, however, of how sensitive an *official* poverty line should be to such changes. If the line is meant to measure a subsistence level, changes in the standard of living and consumption patterns are inapposite. If the line measures absolute need, changes in the standard of living should not affect it: the only changes necessary are adjustments for inflation, and the occasional change to add a new necessity to the subsistence list. The Panel tries to correct for rising standards of living by attaching the poverty line to society as a whole. But the problem does not justify the solution. New items do not become necessities every year. To the contrary, there are few examples of items that truly have become necessities over the years.[43] Therefore, if the goal is to measure *need,* adjustment for inflation is sufficient.

Furthermore, the Panel's method of yearly adjustment itself would not necessarily account for new necessities. For example, imagine that in thirty years the only way to purchase goods and services in America is through a home computer. There is no longer any hard currency nor outlets that accept currency. Under this regime, a home computer clearly would be a necessity, but it would likely not be included in the Panel's categories of food, clothing, or shelter. Presumably, the Panel's line, similar to an absolute subsistence line, would have to be altered to include a new necessity. Therefore, the Panel's proposal both over- and underestimates necessity. The Panel's proposal overestimates the upward change in food, clothing, or shelter because societal standards of living generally rise more quickly than inflation. Their proposal may underestimate need because it does not account for new necessities which arise outside of their categories.

This over- and undercount demonstrates that the Panel's proposal is not actually aimed at measuring need. The Panel does not propose attaching the poverty line to rising standards of living to avoid freezing the necessities counted in the line at a certain time. Instead, the Panel makes a judgment about what it is to be poor. The Panel's line defines poverty as having less than society as a whole. This may, or may not, be connected to having enough to subsist.

The Panel's choice to leave the setting of the threshold to Congress also shows that their solution is not meant to measure need.

43. Two such items are indoor plumbing and refrigerators. It is further proof that the Panel is misguided that despite the amazing rise in standards of living over the past fifty years, so few new necessities have been created.

The actual number set by the framework suggested by the Panel will be an almost completely arbitrary number. It is hard to imagine how the choice of a fraction of median family expenditures on food, clothing, and shelter could represent a substantive, or even thoughtful, legislative determination of a subsistence level. The Panel suggests that "[j]ust proclaiming a number — for example, the income level of $10,000 as the benchmark for poverty — is not useful and would not become influential as a benchmark or poverty guide." The choice the Panel leaves for Congress involves more figuring, but it amounts to an equally arbitrary choice. Therefore, if you accept the concept that a poverty line should measure need — which the Panel asserts as its starting point — the Panel's proposals are unacceptable.[44]

Finally, the decision to create a relative poverty line is certainly subject to attack. Most Americans are comfortable with the concept of poverty as need, but there likely would be less agreement about poverty as inequality. But because the Panel's line is set and adjusted according to society as a whole, the line measures the gap between the poor and the rest of society, not the number of people who can or cannot subsist. This is a serious weakness for an *official* poverty line. The Panel should have given more thought to proposing a threshold based on need set by an expert calculation. This would have created a more defensible absolute poverty line and might have spurred Congress to action.

B. *The Panel's Suggestions for Calculating Income*

In addition to a recalculated poverty line, the Panel suggests a new definition of income. This section argues that the Panel's suggested changes to the income measurements used for the poverty line are mostly justified.

Under the current system income is based on pretax income — while the line is set according to posttax income — and in-kind benefits are not counted as income. The Panel proposes to remedy both of these errors. First, the panel proposes that income, payroll, and social security taxes be deducted from estimated income (p. 209). This is necessary because ignoring taxes imputes more buying power to the working poor than they actually have.

Second, the Panel suggests that the value of "near-money" in-kind benefits be included in the measure (p. 209). "Near-money" benefits are food stamps, subsidized housing, school lunches, and home energy assistance. The Panel chose these benefits, as op-

44. Last, the Panel's calculations are certainly not publicly accessible. Few members of the public will be able to understand a line based on a percentage of the median expenditures plus a small multiplier. Furthermore, to those who do understand the measure, it cannot be defended as a real minimum subsistence line.

posed to other in-kind benefits such as legal services, because these items are necessities. Because a family would have to spend their own money on these items if not for the benefits, government in-kind provision of these items is almost indistinguishable from cash income.

Both of these adjustments are necessary and useful. Ignoring taxes undercounts the working poor, and ignoring in-kind benefits fails to show the effect of government programs and overcounts those who receive aid. Both of these effects have serious consequences for the poverty line's utility as a measure of government programs.

Interestingly, the Panel chose not to include in-kind medical benefits in income. Health care appears to be one of the most difficult questions the Panel faced. Medicaid and Medicare benefits are not counted as income for two reasons. First, not all persons need or receive medical care every year. By contrast, Food Stamps provide a good that all families need all year, and the small amount of money given in the form of Food Stamps is unlikely to be *more* than is necessary. Imputing the market value of Medicare and Medicaid coverage is unfair to the healthy because the coverage is more extensive than they would use or purchase. More important, counting medical benefits for the sick will have the "perverse effect" of making the sick look better off.[45]

The Panel proposes to handle medical care by *not* counting the value of in-kind medical benefits as income. The Panel also suggests that actual out-of-pocket costs spent on medical benefits should be subtracted from income. The Panel argues that although it might distort the poverty line to include in-kind health care benefits, actual money spent should be subtracted to reflect the value lost to those who actually do have out-of-pocket expenditures. The advantage of this approach is that it will not over- and underestimate poverty for the sick and healthy, but that it will measure changes in government treatment of medical care because as the government cuts or adds to Medicaid or Medicare, out-of-pocket expenditures will rise or fall. The Panel also argues that such an approach will completely remove medical care from the poverty measurement. Those who pay for health services will have correspondingly low measures of income, and those who receive in-kind benefits will not have that value imputed to them.

45. *See* p. 224. If the actual provision of medical services is counted, such as the actual cost of surgery, this will be especially true. A poor person who has several major surgeries could "earn" the poverty line twice over. Even if medical benefits are measured according to their value as insurance, any premium that is set will have to reflect the higher risk a "sicker" person presents, so the income levels of the old or the chronically ill will be artificially high.

The question of medical benefits is difficult. One member of the Panel, John Cogan, dissented from the Panel's findings and found the treatment of medical care especially troubling (pp. 385-90). Cogan argues that subtracting out-of-pocket medical costs from income assumes that all such expenditures are nondiscretionary. By subtracting out-of-pocket costs the Panel implicitly has included medical care among its original four "necessities" because subtracting from income is the same as adding to the poverty line. The Panel's treatment of medical care, however, does not explicitly call for public debate about whether health care is a necessity and how it should be counted. Instead, the Panel attempts to remove health care from the measure altogether, which hides the underlying policy question.[46] The Panel would be more straightforward if they added a value to the poverty measure for medical expenses that accounted for both out-of-pocket costs — these would be included in the dollar figure — and for in-kind benefits.[47] This would allow for a frank policy discussion of whether healthcare is a necessity or not, rather than an attempt to remove healthcare from the dialogue altogether.

CONCLUSION

Despite the preceding criticisms, *Measuring Poverty* is the most comprehensive and thoughtful effort yet to remedy the deficiencies of the current poverty line, and it deserves serious attention. The Panel has made many worthwhile suggestions, most notably in the calculation of income. The Panel went awry, however, when they lost sight of their own definition of poverty as material need. The Panel was too daring in some of its suggestions, a relative poverty line and its treatment of medical care; it was too staid in neglecting to set an actual figure for a reticent Congress.

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46. The Panel also suggests deducting child care costs and expenses connected to travel to and from work. *See* pp. 66-72. The analysis of medical care applies equally to these changes. If these items are necessities, it would seem more straightforward to count them along with food, clothing, and shelter. If they are not clearly necessities, they should not affect income measurement.

47. Of course, the difficulties the Panel describes for evaluating Medicaid and Medicare still would exist. One partial solution is to impute the value of these benefits according to insurance rates, rather than imputing the full value of services rendered. This would avoid the worst overcounting of the income of the sick. This still might overvalue the insurance to the healthy.