Displacement as Regulation: New Regulatory Technologies and Front-Line Decision-Making in Ontario Works

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Abstract

This paper explores how new regulatory technologies and front-line decision-makers reshape one another. Drawing on a recent qualitative study of caseworker decision-making in the Ontario Works program, it demonstrates the dialectical relationship between new case management software and caseworkers. While new technologies may attempt to deskill and decentre front-line decision-makers, transforming them into data entry clerks, caseworkers learn how to expertly translate and input client data to produce decisions that more closely match their interpretation of clients' needs and welfare laws. The ways in which workers "manipulate the system" to produce a particular decision, though common knowledge among their colleagues, are black boxed to program managers, auditors, and benefits recipients.

Keywords: discretion, street-level bureaucrats, regulatory technology, new public management, welfare

Résumé

Cet article examine les façons par lesquelles les nouvelles technologies de réglementation et les décideurs de première ligne se remodèlent mutuellement. En se fondant sur une récente étude qualitative du processus de prise de décision de travailleurs sociaux du programme Ontario au travail, l'on expose la relation dialectique entre le nouveau logiciel de gestion de cas et les travailleurs sociaux. Alors que les nouvelles technologies visent à réduire le rôle et l'importance des décideurs de première ligne, transformant ceux-ci en simples commis de saisie de données, les travailleurs sociaux apprennent à traduire et à entrer les données des clients de façon à produire les décisions qui correspondent à leur perception des besoins des clients et des lois sur l'assistance sociale. La capacité des travailleurs sociaux à « manipuler le système » pour obtenir une décision donnée est bien connue d'eux-mêmes mais soigneusement cachée des gestionnaires de programmes, des vérificateurs et des bénéficiaires de prestations.

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Mots clés : discrétion, bureaucrates de première ligne, technologie de réglementation, nouvelle gestion publique, assistance sociale

> The problem is that people's lives are not a drop-down menu. […] And that's where we run into problems. And, you know, a system is making decisions, taking it out of the hands of the worker, right? And we have to manipulate the system to make the decisions that we want.
>
> "Stephanie," Caseworker
> *Ontario, Canada*

Introduction

Information management technologies are subtly and fundamentally reshaping how front-line workers bring welfare laws to life. Scholars across disciplines have addressed important questions about the relationship between technological innovation, institutional design, and the regulation of front-line workers. Law and technology scholars, for instance, have explored how data collection and auditing practices can simultaneously reveal and obscure the phenomena on which data are gathered, with complex and unintentional governance consequences (Austin 2012; Bevan and Hood 2006). Similarly, socio-legal scholars have proposed that institutional design features influence how "street-level bureaucrats" use discretion to enforce regulatory standards (Bardach and Kagan 1982; Pires 2011) and deliver government services (Braithwaite 2002; Lipsky 1980). This work makes important contributions to our understanding of the effects of data collection and different regulatory forms, but it has yet to closely examine the regulatory impact of new software that is increasingly common within government agencies. Designed to collect extensive data about program users, intensify audits of front-line workers, and simplify administrative decision-making, these new regulatory technologies are reshaping discretionary decisions from the ground up and transforming administrative agencies in the process.

This article contributes to ongoing debates about the relationship between the tools of regulation and the discretion of front-line workers by examining one such tool—the Social Assistance Management System (SAMS)—and its effects on decision-making in Ontario Works (OW), Ontario's welfare program. Those who deliver social benefits have long been subject to regulation to guide their interpretation and application of the byzantine legal frameworks that commonly govern such programs (Gilliom 2001; Soss, Fording, and Schram 2011b). Technologies such as SAMS are qualitatively different from previous regulatory tools, however. First, these regulatory technologies require caseworkers to fit benefits recipients into narrow drop-down menu categories, and then, using these data inputs, the technologies produce decisions about whether a particular individual is eligible for welfare benefits. This functioning distinguishes such software from the more extensively studied risk management technologies that guide criminal justice officials (Hannah-Moffat, Maurutto, and Turnbull 2009; Ballucci 2012). Whereas risk management technologies use data inputs to produce quantified risk indicators, which corrections officials rely on to make custodial and release recommendations,

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software such as SAMS *itself* generates decisions to grant or deny benefits. Second, new regulatory technologies reach across institutional and jurisdictional boundaries to network client data between administrative agencies and standardize front-line decision-making in diverse programs. For over fifteen years, national, provincial, and local governments have procured and introduced virtually identical "off-the-shelf" software packages designed by the same firm that created SAMS. Today, this software operates in jurisdictions ranging from Australia, Germany, and Brazil, to North Carolina and Ontario (Pricewaterhouse Coopers 2015; US Dept HHS 2000). Marketed as adaptable to many benefits programs, SAMS-like technologies now administer programs as varied as workers' compensation, child protection, veterans' benefits, health services, and welfare (IBM Corporation 2012).

At a time when new regulatory technologies are increasingly prescriptive and pervasive, there is a need to interrogate how these technologies interact with front-line decision-makers. My goal is not to propose policy solutions, though I do offer some closing thoughts on policy lessons. Rather, this article provides insights into the push-and-pull between human decision-makers and technologies that regulate through their decision-making performance. By closely studying the socio-legal effects of these new tools, this article offers an evidentiary basis for further work by policy makers, legal scholars, and social justice advocates.

Welfare, and OW specifically, provides a useful context for this study. With the term "welfare," I include historic and contemporary state-funded programs that provide basic financial assistance to individuals who otherwise lack access to financial supports. The caseworkers who deliver these programs have long been subject to regulatory initiatives to legalize, judicialize, and deskill their work and guide their interpretation and application of welfare laws. Despite this long regulatory history, until recently scholarship on welfare regulation largely focused on benefits recipients rather than front-line workers (Gustafson 2011; Wacquant 2009; Mosher and Hermer 2005). Scholars have begun studying the governance of front-line workers in the United States and the United Kingdom, but this phenomenon remains underexplored in Canadian welfare programs.

Like its American and British counterparts, Ontario's welfare program underwent dramatic material and discursive reforms in the 1990s. Monthly benefits were reduced by over twenty per cent, and the additional supports that might supplement these lower monthly benefits required that OW recipients participate in employment activities. Program language also changed. "General Welfare Assistance" became "Ontario Works," and individuals had to demonstrate their commitment to job-seeking and training activities by signing a Participation Agreement before receiving assistance (Mosher and Hermer 2005). Though these reforms initially reduced the number of people receiving assistance, today's OW program remains vast and provides benefits to almost 450,000 people annually (AG Ontario 2015; Commission RSAO 2012). Program delivery costs are shared between the Province of Ontario and municipalities, with the province responsible for funding most benefits (AG Ontario 2015, 472). The Province of Ontario also creates and amends OW legislation and regulations, but day-to-day benefits and services are delivered by 238 municipal offices. The legal framework governing OW

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is notoriously intricate and explicitly founded on competing objectives, such as effectively supporting the poor, promoting self-reliance through paid employment, and saving tax dollars (*Ontario Works Act*, s 1). Consequently, both the provincial Ministry of Community and Social Services (MCSS) and municipal social services departments have developed an array of tools—policy directives, forms, checklists, flow charts, data management software—to guide how caseworkers interpret and apply OW rules. OW benefits fall into two broad categories: basic benefits, which include shelter and food and are calculated according to the number of individuals living in one household; and supplementary benefits, which include benefits for "employment-related expenses" such as the cost of public transit, training programs, special clothing, and grooming.[1] Because basic benefits fall far below the actual cost of living in Ontario (CCPA 2016), supplementary benefits are crucial for OW recipients.[2] To be eligible for OW benefits, applicants must have income and assets below provincially-set thresholds, consent to share their personal information with federal, provincial, and municipal agencies, and meet regularly with their assigned caseworker. While OW legislation has remained relatively unchanged since the 1990s, the managerial tools regulating benefits delivery have evolved alongside shifting provincial and municipal priorities.

By exploring the evolution and effects of such tools, this article demonstrates that regulating front-line workers remains dialectical even as administrators implement prescriptive regulatory technologies. These technologies may seek to displace front-line workers as skilled decision-makers, but they also "black box" caseworkers' response to displacement (Latour 2005). Caseworkers cleverly use discretion and adjust data entries so that these technologies produce decisions that are closer to workers' interpretation of clients' circumstances and OW's legal regime. To support these claims, I draw on my qualitative study of front-line decision-making in the OW program. This study used exploratory qualitative research methods because sparse empirical research exists detailing how front-line workers use discretion in Canadian welfare programs. During my fieldwork, it became clear that SAMS was uniquely impacting how caseworkers exercised discretion, so I expanded my study to explore SAMS's design, function, and interaction with caseworkers. This article draws on a range of sources, including semi-structured interviews with front-line staff, on-site observation, and relevant documentary sources (internal policies, government reports) to ground its insights into a relatively new form of regulatory technology. As a study that relied on volunteer participants from five offices within two municipalities, my findings may be limited to

1 By "basic benefits," I mean income assistance and other benefits that OW legislation categorizes as mandatory benefits; "supplementary benefits" refers to the many other supports within the OW program.

2 At the time of my study, a single person in Ontario received $681/month in basic benefits; a sole-support parent with one child received $951/month: *OReg* 134/98, Part VI. Supplementary benefits are caseworkers' greatest source of flexibility when clients request funding for essential items, such as clothing for their children, dental care, or equipment needed to begin a new job. Because benefits amounts have remained virtually stagnant even as the costs of basic necessities have increased since OW was introduced, OW recipients today live in deeper poverty than they did following the dramatic benefit cuts of the 1990s (CCPA 2016).

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its research sites or the OW program's unique history.[3] However, participants' descriptions of their engagement with SAMS were generally consistent across offices and their accounts were further endorsed by documentary evidence. Overall, they suggested that, although SAMS may attempt to deskill and decentre front-line decision-makers, workers become re-skilled and learn to, as one participant put it, "manipulate the system to make the decisions that *we* want" ("Stephanie" Interview).

This article proceeds in three parts. First, it examines a range of initiatives to regulate caseworkers, from the creation of multiple rules and policies (legalization), to the introduction of external review mechanisms (judicialization), to the more recent adoption of managerial strategies to transform caseworkers into data entry clerks (deskilling). Second, it considers how regulatory technologies such as SAMS uniquely deskill front-line workers by decentring them as decision-makers, particularly by increasing the burden of inputting client data and resolving software errors and by fracturing and obscuring the notes caseworkers use to trace their reasons for particular decisions. Third, it explores how workers reassert themselves as skilled decision-makers by tweaking data inputs to soften SAMS's prescriptive decision-making approach. While this article highlights SAMS's success in redirecting caseworkers' focus from their clients' needs and OW's rules to the software's demands, it also traces how SAMS obscures, rather than eliminates, caseworker discretion. As I demonstrate below, SAMS conceals but does not entirely remove the means by which workers "manipulate the system," eclipsing them from the view of program managers, auditors, and benefits recipients.

Regulating Front-Line Workers: Rules, Review, and Roles

Welfare programs have long regulated both the distributers and recipients of public benefits, yet scholars tend to examine welfare's client-disciplining effects. Studies of early welfare programs typically consider how caseworkers disciplined people living in poverty by differentiating between the deserving and undeserving poor, but overlook how these programs regulated caseworkers themselves (Piven and Cloward 1993; Handler and Hollingsworth 1971). For instance, research on single mothers' allowances in Canada identifies how a small set of broadly worded rules enabled caseworkers to use personal qualities, such as marital status, British subjectship, or being a "fit and proper" mother, to distinguish those who were deserving of state-funded assistance from those who were not (Gavigan and Chunn 2010, 53–57).

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[3] Research was conducted in five social services offices across two southern Ontario municipalities. Semi-structured interviews averaging two hours were conducted with twenty-five front-line workers who confidentially volunteered to participate and were audio-recorded and transcribed. Participants varied in age, citizenship status, ethnicity, vocational experience, and approaches to OW; the majority self-identified as women. While some explicitly identified as "pro client" social workers and others as "black-and-white" decision-makers, closely reading and coding my data suggests that many participants fell somewhere between these two poles. Additional meetings were held with management staff, who provided contextual information about research sites. To triangulate interview and site visit data, I reviewed the following documentary evidence: provincial Auditor General reports; provincially-commissioned reviews of social assistance and SAMS's implementation; OW laws and policies; and public-sector union reports of SAMS's effects on front-line employees.

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These early programs relied on caseworkers to skilfully assess the homes and personal circumstances of sole-support mothers and provide some (but not others) with individually-tailored supports. By allowing caseworkers to penalize or reward individuals based on how closely they fit the normative model of a deserving welfare recipient, these programs used caseworkers' discretion as a tool to regulate sole-support mothers. Yet this same discretion also empowered caseworkers to mitigate the effects of poverty by providing individualized supports to deserving welfare recipients.

Since the second half of the twentieth century, welfare programs have increasingly targeted both people living in poverty and front-line workers as subjects of regulation. As welfare rights movements gained momentum in the 1960s, caseworkers' discretion became a central concern of rights advocates and policy makers (Nadasen 2005; Tani 2016), and broader critiques of administrative discretion gained traction (Davis 1969; Ontario 1968). Welfare rights advocates challenged caseworkers' ability to deny benefits absent fair hearings or based on discriminatory notions of deservingness. Government officials, by contrast, were concerned with guaranteeing consistent decisions and preventing caseworkers from distributing public benefits to undeserving individuals, rather than ensuring that caseworkers provided aid to every eligible applicant (Handler and Hollingsworth 1971). Ultimately, between the 1960s and the 1990s, formal legal mechanisms were introduced to regulate front-line workers. Caseworkers' discretion was thus "legalized," as a large body of written rules was introduced to structure caseworker decisions, and "judicialized," as front-line decisions became reviewable by tribunals and courts (Jowell 1975).

This legalization and judicialization failed to eliminate caseworker discretion, however, and instead created new space in which discretion flourished. Legalization's lasting impact on North American welfare programs, including OW, is visible in their intricately-layered statutory provisions, regulations, and policies. As a regulatory strategy, legalization presumes that discretion and law exist in a zero-sum relationship. Yet, as socio-legal researchers have shown, discretionary space often increases in proportion to the number of rules created to constrain it (Hawkins 1992). Statutory language almost always contains vagueness or imprecision, and when vague rules overlap, discretionary room multiplies (Sainsbury 1992; Endicott 2002; Brodkin 1997; Prottas 1979). Moreover, reforms to social benefits programs often serve divergent policy goals, which become embedded in legal rules. Rather than resolve the conflicts produced by this approach, legislators make administrators responsible for ensuring benefits programs function despite their contrary aims (Baldwin and Hawkins 1984, 574; Brodkin 2008; Mashaw 1983). As noted in the introduction, OW laws are marked by this legislative practice, and research participants explained how they regularly balance conflicting objectives, such as assisting vulnerable individuals, promoting self-sufficiency, and minimizing government spending, when they make benefits decisions. Most participants did not identify OW's many rules as significantly restricting their discretion; rather, rules offered creative interpretive space.

Judicialization also ineffectively restricted front-line workers' discretion. Not only are few caseworker decisions legally reviewable, but benefits recipients rarely

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challenge those decisions that can be reviewed. OW legislation limits the external administrative review of caseworker decisions to a small set of basic benefits decisions, making virtually all supplementary benefits decisions unreviewable.[4] Courts are loath to review administrative decisions that they identify as addressing "policy" or "legislative" matters (Sossin 2004b). For those decisions that can be reviewed, empirical researchers have demonstrated that judicialization ineffectively regulates caseworker discretion because government benefits recipients so infrequently appeal decisions that reduce or eliminate their benefits (Lens 2005; Halliday 2004). Formal legal mechanisms thus doubtfully constrain caseworker discretion. If anything, the growth of legal rules and limits on external review ensure that discretion persists within OW and similar benefits programs.

From the early 2000s on, OW and similar programs have increasingly relied on managerial rather than legal devices to regulate front-line workers, particularly those that deskill benefits delivery tasks. American scholars link the deskilling trend in welfare agencies to two phenomena: shifts in program delivery models, from a social work model to a legal bureaucratic model (Diller 2000); and changes in hiring and training practices that favour data entry clerks over professional social workers (Oberfield 2014). My research suggests, however, that Canadian programs such as OW have pursued deskilling largely through new regulatory technologies rather than program delivery models or hiring practices. Although OW legislation introduced new principles to guide the delivery of last-resort assistance (e.g., promoting paid employment, conserving taxpayer-funded benefits), local offices' approach to service delivery was mixed. Unlike some American welfare providers, caseworkers were not replaced with data entry clerks. In the offices I studied, front-line workers were highly trained. They possessed post-secondary diplomas or degrees in social work, social sciences, or public services administration, and their employers encouraged them to undertake graduate-level or continuing education.[5] Further, many participants described taking a "social work" approach and striving to make client-centred decisions that would ameliorate hardship, an approach supported by management staff. Deskilling still exists in the OW program, but it is pursued primarily through ubiquitous regulatory technologies that caseworkers use in their daily interactions with clients.

While regulatory technologies may help caseworkers to manage legalization's effects, specifically, the complex interplay between laws, regulations, and policies, they also promote deskilling by redirecting caseworkers' attention away from clients and OW laws and towards check-boxes, flowcharts, and drop-down menus. Regulatory tools ranging from paper forms to computer programs have ballooned since OW was introduced in the late 1990s. For example, caseworkers must take every new OW applicant through provincial Application for Assistance and Rights and Responsibilities forms. Both documents prompt caseworkers to inform their

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4 Unappealable decisions include the "prescribed decisions" listed in the *Ontario Works Act, 1997*, section 26(2), para 8 and *OReg* 134/98, section 68.

5 All participants had some form of post-secondary education, from college diplomas to graduate-level social work degrees. Management staff confirmed that a college diploma is a prerequisite for caseworkers.

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clients about the range of benefits that they may be eligible for and their obligation to participate in employment preparation activities. Similarly, caseworkers are required to use a co-residency questionnaire to determine whether unmarried clients who live in shared housing are in a spouse-like relationship with their roommate. This form includes a series of questions that caseworkers must ask about the financial, social, and familial relations between clients and their roommates. Caseworkers must then decide, based on their clients' answers, whether they and their roommate are in a dependent, "marriage-like" relationship, a finding which will ultimately reduce or terminate a client's OW benefits.[6] Although many participants found these tools helped them to navigate OW's layered rules, some noted that form-filling distracts them from reading OW policies or spending time with their clients and that forms fail to capture either the nuances of OW laws or the realities of clients' lives.

In addition to forms and questionnaires, computer software has become a popular tool to nudge caseworkers away from client-centred social work and towards data entry and caseload management tasks. For several decades, case management software has supplemented paper-based tools to guide the everyday decisions of those delivering social benefits. Rather than direct caseworkers to a particular outcome, however, early software regulated their decisions by organizing and revealing particular client data to caseworkers (Sossin 2004a; Herd and Mitchell 2002). For instance, the case management software that preceded SAMS stored and displayed caseworker-entered data, enabling caseworkers to record notes about their clients, track OW payments, and perform basic benefits calculations (Herd, Mitchell, and Lightman 2005; "Rachel" Interview; "Bridget" Interview). This software organized client data and benefits payments but left substantive eligibility decisions to the workers themselves. Municipal social services departments have also developed their own digital tools to help caseworkers manage large caseloads and determine which benefits and services to grant clients facing multiple barriers to stable, paid employment.[7] These programs prompt caseworkers to enter specific information about their clients' education, training, and progress towards securing employment. They then translate this data into percentage scores that influence how caseworkers link individual clients to specific benefits. To help caseworkers manage their large caseloads, another program organizes client data so that workers can identify all clients in a particular office who are seeking a specific type of job or vocational training so that they can inform these clients of relevant upcoming job fairs or training opportunities ("Harriet" Interview; "Monica" Interview). These technologies subtly regulate front-line workers, however, because their functioning depends

[6] The "Questionnaire" ("Bridget" Interview), or "Form 2764" as it is referred to in policy documents, must be used whenever an OW recipient shares accommodations with another adult who is not listed as a spouse on the recipient's documents (MCSS 2008).

[7] Caseload numbers vary depending on the characteristics of a caseworker's clients. Workers whose clients are deemed to need more supports, such as clients with addictions, precarious housing, or sole-support parenting responsibilities, typically have caseloads of fifty to eighty clients. Caseworkers whose clients are identified as "close" to the labour market (i.e. who had paid employment in the past two years) have caseloads of 110 to 140 clients.

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on caseworkers to conscientiously enter and maintain vast amounts of client data. Thus, they adjust caseworkers' responsibilities from social workers who develop individualized, client-supportive solutions to inputters and managers of massive client databases. Nonetheless, caseworkers still maintain their role as gatekeepers of OW benefits, employment opportunities, training, and other community-based programs. As the next section demonstrates, the same cannot be said of the newest regulatory technologies, such as SAMS, which decentre the authority and expertise of those at the front-lines of OW delivery.

Regulating Generosity, Decentring Caseworkers

The new regulatory technologies introduced into social benefits programs more forcefully deskill front-line workers as they preoccupy caseworkers with data entry tasks and destabilize caseworkers' decision-making authority. Although SAMS and its off-the-shelf relatives are marketed as effective regulatory tools based on their enhanced ability to audit caseworker decisions, their prescriptive design thwarts transparency goals and eclipses caseworker discretion. Presently, SAMS's greatest regulatory impact stems not from its auditing capabilities but from how it displaces caseworkers as authoritative legal decision-makers.

The rationale for introducing SAMS—to decentre caseworkers as decision-makers—raises deep normative questions, which are gestured towards in the provincial Auditor General's report that precipitated SAMS. In this report, the Auditor General expressed fear that municipal caseworkers too readily believe their clients' claims of financial need, too broadly interpret OW laws in their clients' favour, and too quickly distribute provincial funds to benefits recipients (AG Ontario 2009). A series of principled concerns underlie these fears. How broadly or narrowly should OW legislation be interpreted, keeping its conflicting policy goals in mind? Relatedly, whose legislative interpretation should be taken as authoritative: front-line workers (many of whom are trained as social workers) or provincial auditors (who are accountants by training)? Although answering these questions is beyond the scope of this article, they may offer insights into SAMS's complex regulatory effects.

The Auditor General's pre-SAMS report constructed municipal caseworkers' discretion as a problem in need of a solution. In this report, the Auditor General criticized caseworkers for interpreting and applying OW eligibility policies and documentation requirements too flexibly, for too often relying on their clients to supply the information needed to establish individual eligibility, and for too readily trusting the veracity of client-provided information (AG Ontario 2009, 256–57). The Auditor General was not concerned that caseworkers might mistakenly fail to provide benefits to eligible individuals, but that they were interpreting OW laws too generously and distributing provincial funds too freely. Program managers were described as lax, allowing OW rules to be waived and condoning local practices that appeared to depart from provincial directives. The Auditor General was particularly alarmed by competing municipal and provincial interpretations of broadly-worded OW laws and policies, which caseworkers read more charitably than MCSS officials (AG Ontario 2009, 260–63, 265). In contrast with

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1990s-era reforms, which aimed to eliminate an ostensible mass of fraudulent benefits claims (Mosher 2010), the Auditor General's recommendations addressed a new threat to OW's integrity: the overly-sympathetic, too-generous front-line decision-maker.

The Auditor General recommended that the MCSS constrain caseworker discretion in order to govern the OW program, and the MCSS proposed SAMS as the most effective response. Simplifying and reducing overlapping provincial policies, while helpful, would not address the Auditor General's underlying concern that municipal workers were innovatively interpreting provincial laws and policies and liberally distributing OW benefits.[8] This problem instead required a solution that would rein in caseworkers while enabling the province to verify municipal compliance with provincial laws and policies (AG Ontario 2011, 388). The MCSS introduced SAMS as a managerial-technical answer to the dilemma of too-generous caseworkers. Already widely used by social benefits programs worldwide, SAMS promised more extensive remote auditing of caseworkers' files (AG Ontario 2011, 386–87; AG Ontario 2015, 471, 474) and a "hands-off" approach to decision-making. Designed to generate its own decisions based on caseworker-entered data, SAMS would ostensibly make easy, routine benefits decisions and free up workers to meet with more complex clients (IBM Corporation 2012).

To say SAMS failed to function as promised is an understatement. After going "live" in November 2014, SAMS began releasing benefits payments to individuals who were no longer eligible for OW and eliminating or significantly reducing payments to eligible OW recipients. Rather than freeing up caseworkers to focus on their most vulnerable clients, SAMS demanded more of their attention by requiring workers to enter extensive client information into multiple data fields buried deep within the software and to "click" multiple times to perform basic tasks ("André" Interview). To halt the havoc SAMS was wreaking on front-line workers and benefits recipients, one public sector union unsuccessfully sought a court injunction (Brennan 2014). SAMS remained, and front-line workers adapted their decision-making practices accordingly.

While SAMS's initial, massive benefit payment errors were widely reported, its regulatory rationale has more fundamentally transformed front-line decision-making. As noted above, earlier software assisted caseworkers with the procedural elements of decision-making, such as navigating complex rules, tracking benefit payments, and following up with clients. SAMS is qualitatively different. Like other off-the-shelf software, SAMS purports to be a "fully automated service delivery model" that produces its own legal decisions after caseworkers have input a wealth of client information into multiple data fields (IBM Corporation 2012). Though SAMS may eventually enable closer audits of caseworkers' decisions, the threat of

[8] The Auditor General's value-for-money concerns diverge from those stated in a contemporaneous Commission-led review of Ontario's social assistance programs (Commission RSAO 2012). Many of the Commission's 108 recommendations centred on the need to simplify the legal framework governing social assistance. The Commission also proposed that simpler rules would give caseworkers more time to address their clients' educational goals, housing needs, and employment plans.

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external review has had a less immediate regulatory effect on caseworker decision-making. Instead, SAMS's performance as an automated decision-maker is the key to its regulatory impact. By acting as a decision-maker, SAMS transforms OW caseworkers from decision-makers who "mediate" between OW laws, office policies, social work norms, and clients' needs (Prottas 1979, 149) into clerks who collect and input client data for SAMS's use. In short, SAMS regulates primarily by displacing caseworkers from their vital role as legal decision-makers.

This regulatory rationale is evident in how SAMS functions. SAMS decentres front-line workers by firmly directing them towards a particular decision, which prevents workers from performing other essential decision-making tasks, such as assessing how many benefits a client has received, locating and reviewing notes that detail why a previous decision was made, and adjusting data inputs so that SAMS-generated decisions match a caseworker's interpretation of client need and OW laws. As a software program, SAMS is designed to capture workers' data inputs, analyze that data, and produce a benefits decision. As one participant described it, "[I]deally we're supposed to input everything into that system, and the system will then produce the outcome: eligible or ineligible" ("Anita" Interview). Not only does SAMS generate its own decisions, but its design also makes it very time-consuming for front-line workers to insert *themselves* as decision-makers and influence SAMS's outcomes. For instance, SAMS uses personal data to connect the files of present and previous OW recipients who, at one time, resided in the same household. It then uses this data to form families in ways that one participant described as being "almost like Ancestry.com" ("Martha" Interview). In doing so, SAMS decides that those individuals it has linked together depend on one another and, accordingly, reduces the total value of OW benefits provided to each "family" member. As a result, SAMS may make sole-support mothers dependent on previous household members, such as former intimate partners or their parents, even where caseworkers have reviewed relevant evidence and determined that these individuals do not live together (AG Ontario 2015). Front-line workers have great difficulty separating the people that SAMS joins because, as one participant noted, "SAMS doesn't tell you, 'Hey, this [data input] is what is causing your problem'" ("Stephanie" Interview).

SAMS also enforces a narrower interpretation of OW legislation, demanding time-intensive interventions by caseworkers who interpret legal rules more broadly. For instance, as noted above, benefit recipients are required to sign a Participation Agreement as a condition of receiving assistance (*OReg* 134/98, ss 18(1), 30). OW legislation and regulations are largely silent on the specific contents of these agreements and permit a broad range of activities to qualify as employment preparation activities, including vocational training, community service, and addictions treatment (*OReg* 134/98, ss 25–29). However, if a caseworker indicates in SAMS that a client has signed a Participation Agreement but fails to select a drop-down menu option specifying which employment activity their client has agreed to perform, SAMS will refuse to issue OW benefits. Similarly, though OW laws and policies empower caseworkers to provide clients with as many supplementary benefits as they are eligible for in one appointment, SAMS will not generate more than one supplementary benefit payment per client within

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a twenty four-hour period. One office manager explained how these conflicting interpretations of OW laws lead to particularly stark outcomes for benefits recipients. She described an individual who requested funds to purchase a shirt for an upcoming job-shadowing exercise. This client had received these funds on the previous day but, after buying a used shirt, he discovered that he was required to wear a crisp white shirt to the workplace:

> Because money was given to him the day before, SAMS wouldn't allow authorizing the funds, so the worker and her supervisor, who is very by-the-rules, came to me. I told them we had to work something out because this guy was employment-ready and does it make sense to *not* give him $25 so he can buy a new shirt at H&M for an interview that will likely get him into a job? We had to call in [an in-office SAMS expert] to figure out how we could issue him the funds. We had to "trick the system" to get money to the guy. ("Tracy" Interview, *emphasis in interview*)

While front-line workers may be able to "trick the system" so that SAMS provides benefits to legally eligible clients, this task requires that they enlist a team of colleagues, from supervisors to office managers, to work around or override SAMS. In other cases, workers may be able to wait twenty-four hours to issue benefits, but this means they must return regularly to a client's SAMS file to issue one supplementary benefit at a time ("Rachel" Interview; "Cheryl" Interview; "Bridget" Interview). Given their large caseloads, caseworkers cannot tweak the system for every client and must selectively ration their efforts.

SAMS fractures, multiplies, and obscures client information and denies benefits if data are missing from its many evidence fields. These SAMS-generated decisions are very difficult for front-line workers to deviate from because the reasons for SAMS' decisions are often hidden from caseworkers' view. SAMS requires that caseworkers input the same client information into numerous boxes and screens, and clicking or not clicking a box can mean the difference between a client receiving or being denied benefits. Yet, when SAMS denies benefits to an individual whose caseworker has determined should be eligible for those benefits, workers must struggle to locate which data input is causing the problem. As one participant described: "[C]licking a checkbox means the difference between someone getting their cheque and someone not getting their cheque. So if you don't click into seventeen different pages to actually find that checkbox, you won't be able to figure out what is happening with this case" ("Julie" Interview). Further, SAMS buries data detailing the exact benefits payments that an individual has received while simultaneously preventing caseworkers from recording and saving notes to explain their reasons for particular benefit payments. The same participant explained:

> [SAMS will] tell you the case name, the case ID number, who did it, and the date, but it won't tell you the amount. So you actually have to click into the case and go through to determine what amount was issued and then, if somebody lumped a payment together, like Transportation [Funding] with another fund […], you have to try and decide, "Ok, what is this $350 for? Is it for what I think it is? Is it different?" ("Julie" Interview)

Other participants noted that SAMS can make it unclear whether someone is even receiving assistance, as "it's sometimes very difficult to see whether or not their

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file's on suspend or if it's closed" ("Jameela" Interview). Front-line workers cannot easily identify which types of benefits OW recipients have already received or the dates when these payments were made. These data are crucial for caseworkers to determine clients' present eligibility for benefits. By obscuring basic information, SAMS bars those at the front lines from assessing whether individuals might be eligible for additional benefits and discourages caseworkers from issuing such benefits.

In addition to storing and displaying data in a way that fractures and obscures benefits decisions, SAMS also destabilizes caseworkers' decision-making authority by hindering their ability to record reasons for a particular decision and multiplying the places where they might find one another's notes. For instance, one participant observed:

> I find that, I think, because of the complexity of the system, workers are doing less documentation than they used to. I find a lot less information in SAMS, and I think it just has to do with all of the screens they have to go to in order to add a note, and different things like that. So, it makes it much more difficult. It is harder to find information, as well, in SAMS, because unlike our old system there are multiple *places* where workers can put notes. There are business practices where notes should be in one place but, like anything else, as long as there's three options you're going to have people using option one and three even though they shouldn't be using it, right? ("Jameela" Interview, *emphasis in interview*)

Not only are notes recorded in multiple locations, but SAMS also has character limits built into its notes fields, suggesting through its design that detailed reasons for decisions are not required. In response to these limits, front-line workers may divide their notes across different fields. This practice produces fragmented lines of reasoning that can be difficult to revisit and for other workers to locate and review. Participants identified notes as a key obstacle to determining why previous benefits decisions had been made because the notes explaining a decision could be scattered throughout SAMS, recorded in a central notes database (the "Person Page"), or linked to one of many check-boxes, drop-down menus, or evidence fields associated with a particular benefit.

Finally, SAMS decision-making behaviour redirects front-line workers' attention away from their clients and towards SAMS. Many participants described how they are now overwhelmed with administrative work and forced to use time they would prefer to spend meeting with clients or reviewing their caseloads to instead wrestle with SAMS ("Carys" Interview; "Dawn" Interview; AG Ontario 2015). For example, form printing is now so difficult that some caseworkers will suggest that their clients step out of a meeting so that the caseworker can ensure the proper forms print ("Sharon" Interview; "Rachel" Interview). This situation is antithetical to many caseworkers' commitment to client-centred decision-making. As one participant put it, "Somebody's crying and you have to say, 'I have to ignore you for ten minutes and focus on this' [makes typing sound with fingers on table]" ("Sharon" Interview). Additionally, because SAMS interprets client data unpredictably and reduces or cancels OW benefits unexpectedly, caseworkers often must review and try to correct SAMS-generated errors throughout their workday

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("Nancy" Interview; "Stephanie" Interview). By demanding the undivided attention of time-pressed caseworkers, SAMS continually undermines them as skilled, client-focused decision-makers and repositions them as form-printers, data-inputters, and troubleshooters. As the next section suggests, however, by decentring and deskilling caseworkers, SAMS obscures rather than eliminates their discretion, prompting caseworkers to re-centre and re-skill themselves with complicated results.

Front-Line Discretion: Re-Centred and Black-Boxed

Front-line workers in the OW program respond to new regulatory technologies by asserting themselves as skilful social workers who are (or who become) adept at adjusting their data inputs to produce particular results. A dialectical relationship exists between SAMS's performance as a regulatory tool and caseworkers' response. As SAMS asserts itself as a decision-maker and transforms professional social workers into data-entry clerks, these workers adapt, re-skill, and re-position themselves. They learn to creatively interpret and enter client data so that SAMS generates outcomes that better match caseworkers' perception of clients' needs and their interpretation of OW laws and policies. Scholars have for some time now observed that regulatory technologies almost always risk being subverted by the subjects that they seek to regulate (Soss, Fording, and Schram 2011a, 229). While these tools may black box caseworkers' discretion, making it appear to outsiders that workers comply with rules and algorithms, in practice caseworkers find innovative ways to work with and around SAMS. As one participant put it, "It's just the system—you have to know how to make it work to issue those funds" ("Dawn" Interview). Yet, even as front-line workers re-skill and re-centre themselves as professional decision-makers, they are not free to make decisions according to their own preferences (Baumgartner 1992; Mashaw 1983, 213). Rather, caseworkers are repositioned in relation to SAMS; SAMS continues to function as a uniquely powerful institutional force governing their everyday decisions.

Front-line workers learn to adjust their decision-making practices so that their data inputs generate outcomes that more closely match caseworkers' assessments of the benefits and services to which a particular client is eligible. Thus, even as SAMS directs caseworkers towards particular decisions and displaces them as decision-makers, workers find ways to redirect SAMS so that their clients receive the benefits they are entitled to according to flexibly-worded OW legislation. My data suggest three ways in which caseworkers creatively use SAMS to produce particular outcomes: first, by entering placeholder data when SAMS requires information that is impossible to provide; second, by adjusting dates forward and backward to moderate SAMS's exacting interpretation of dates; and, third, by strategically categorizing clients' needs so that SAMS will find these clients eligible for benefits.

First, caseworkers input placeholder data in fields where SAMS demands information that clients cannot provide. Though OW laws do not require this data to determine benefits eligibility, SAMS may require that very specific client data be entered. If these fields are left blank, or if a drop-down menu option is left

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unselected, SAMS will halt its benefits payments. To prevent SAMS from deeming clients ineligible for OW, front-line workers input placeholder information into these fields even if such information is inaccurate. For instance, SAMS requires that every adult OW recipient be enrolled in or have graduated from high school and that every dependent child be attending school, regardless of age. Similarly, SAMS requires every OW recipient to have an address, even those who are homeless or precariously housed. In response to these requirements, front-line workers have established a practice of marking all adult OW recipients as high school graduates, even if they have not yet received a diploma, and entering "fake school" into the school data field for children who are too young to be enrolled as students (AG Ontario 2015, 487). For clients who are homeless, caseworkers will input a fictitious address so that SAMS issues basic benefits ("Sharon" Interview; "Dawn" Interview). SAMS also requires that clients have a specific employment activity selected from the drop-down menu options in its Participation Agreement screen (which SAMS refers to as an "Outcome Plan") as a condition of receiving benefits. As noted above, OW laws only require that individuals make a general commitment to engage in employment-preparation activities, but if specific details about a client's activities are not input into SAMS by a set date, the software will find that individual ineligible for OW and stop issuing their monthly benefits. To counter this effect, workers may select any activity from SAMS's drop-down menu options—life stabilization, finding employment, training, maintaining employment, restriction, deferral, and so on—to ensure benefits are issued, even if their selection misrepresents a client's circumstances ("Bridget" Interview; "Stephanie" Interview). According to one participant,

> We have to make sure all of our Outcome Plans are up-to-date because the cheques are going to be held in September. […] Again, so the system—so I might put an activity in, 'independent job search,' and then I'll put a note, 'Client needs to be assessed.' So again, just satisfying the requirement without seeing [my client], but I'm putting in the note that this is what needs to happen ("Nancy" Interview).

Given their high caseload numbers, it is impossible for caseworkers to meet with all of their clients before the date on which SAMS will suspend payments. Front-line workers thus tweak the data in a client's computerized file and make a reminder note to update this data at a future client meeting. To an auditor, this caseworker's file may appear to be in compliance with SAMS's requirements; the caseworker's creative use of placeholder data would likely remain undetectable unless an auditor examines the caseworker's note. Because these notes are scattered throughout SAMS, however, it is almost impossible for outsiders to comprehensively review this sort of decision.

Second, to temper the exacting way in which SAMS interprets event data, caseworkers will modify the dates they enter into SAMS so that their clients receive the maximum amount of benefits possible or so that benefits erroneously paid to a client are not clawed back from that client's future OW payments. For instance, when a client has a new child, front-line workers may backdate when they add the infant as a dependent to that client's file so that this client receives a larger monthly benefits payment. One participant described this process as follows:

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> I think I use discretion quite a bit. … [L]ike when I'm adding a shelter amount in, adding a baby—so I use discretion, like, with dates. So if a person had a baby on the sixteenth of August, let's say, or—where are we—August fourth, I might add it August first so that she gets her full entitlement ("Nancy" Interview).

Other front-line workers identified situations where they would adjust dates forward to protect a client's benefits. When faced with a decision about whether to note an overpayment on a client's file, participants described balancing provincial overpayment policies, SAMS's data requirements, and an office norm to not create unnecessary hardship for their clients. According to one participant:

> If the client was over-issued money, there's an overpayment. But we look at extenuating circumstances, *always*. […] So let's say the client, you know, we issued $400 for rent to the client for October. The client comes in October fifth and says, "I moved. My rent is now $300." We will *not* set up an overpayment. Like, you know? Because people—our clients have, like I said—for a lot of our clients, it's hard to function, right? So we might not set up an overpayment.
>
> Q: So when you're inputting the new information, then, about the client's circumstances, for their residence and their rent, what would you do?
>
> We would start it as of November. I would decrease the rent as of November so that there's no overpayment that's created.
>
> Q: Yeah, because if you input it for October—
>
> The system will set up an overpayment. Or if we issued the money, the system will say, "Oh we issued $400, now he's only eligible for $300, so he was over-issued." So, in that case we would change it starting in the following month. … [W]e just *adjust* it. And we would make a note explaining why we made a decision like that, we *should*. ("Stephanie" Interview, *emphasis in interview*)

These adjustments to client data may lead a client to receive a small additional benefits payment. In this situation, OW's legal framework does not offer caseworkers a single, correct answer; it grants them discretionary space. If we accept SAMS's interpretation of OW law as authoritative, these data tweaks appear to be problematic. However, the participants who described making these adjustments interpreted OW laws differently. They noted that OW benefits are far lower than the actual costs of rent, food, and clothing, and that small additional payments could mean that clients are able to purchase groceries, pay utility bills, or remain housed. Though many participants described being guided by a general principle of preventing hardship, they also saw these data adjustment decisions as supporting clients' progress towards self-sufficiency, one of the many goals underlying OW legislation.

Finally, front-line workers become adept at rearticulating their clients' needs in language (or data) that SAMS recognizes so that SAMS will issue supplementary benefits. In such cases, workers negotiate with SAMS to ensure that clients receive the supports that their caseworkers judge to be harmonious with OW's competing aims, such as providing clients with necessary assistance, promoting self-sufficiency, and prudently spending public funds. This rearticulation may

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require clients' collaboration so caseworkers can provide them with much-needed benefits or services. When clients request funds to pay for an everyday item—a child's clothing or school supplies, for example—that OW does not cover and that SAMS will not issue, caseworkers may look for alternate benefits for which these clients *are* eligible. After locating these benefits, caseworkers will input the data SAMS requires to grant these benefits on the understanding that their clients will use these funds to pay for the items for which they initially sought assistance. One participant stated:

> [I]f someone's in trouble and they haven't used any [Housing Funding] and they have a three-year-old, they might not need a bed, but if we were having a conversation, we always try to—I try to look at wherever I can pull money from. Like, that's there. They're eligible for it. You can make a note that the toddler is transitioning into a bed and issue money, that's an option. Some workers—which is good, it's the province's money—will stay within, like they won't look outside for an alternate means to help. But you can, you can. … [Y]ou're not really breaking the rules, you just have to look outside the box. … [I]t's not like we go auditing how they spent the [money] for the bed. I just say, "You know what? I'm issuing this now, so you won't be able to request money for a bed," right? But, at the same time, we have a discussion about how are you going to prevent this next time. Why did you spend your Child Tax Benefit when you know that school's starting? You don't want to blame, but if you need help with budgeting what little finances you have then you can talk to your worker about a referral. It's not just constant, "How can I give you more money?" There still has to be some sort of discussion about next time. ("Kelly" Interview)

In these situations, front-line workers demonstrate their proficiency as navigators of the numerous supplementary benefits available within the OW program and their skilful balancing of competing norms such as preventing client hardship and promoting self-sufficiency. Similarly, OW recipients in addiction treatment programs may require clothing funds that do not correspond with the drop-down menu options available in SAMS. In such cases, front-line workers may choose the next-best drop-down category so that their client will receive some funding. In the words of one participant who works with clients in addictions treatment:

> [N]ow you say "Employment," but employment for what? Here's seven categories. Mine don't fit any of them so I just choose any. … [F]or example, I have a client who this is the third time that I'm giving them a clothing allowance because they've had such dramatic weight *gain*, but I don't have a specific [corresponding benefit in SAMS]—I actually have to go into "Employment." They're not in a job, they're not in training, and I have to issue them that money and I just put it under "Employment-Related Expense" but it's not. It's actually something that's more medically-related because they're no longer using [intravenous drugs]. They're eating and they've put on, you know, sixty pounds. ("Sharon" Interview, *emphasis in interview*)

Addictions treatment is one of the employment-preparation activities that legally entitles an OW recipient to supplementary benefits, such as a clothing allowance (*OReg* 134/98, s 26). However, because SAMS categorizes benefits more narrowly

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than OW legislation, its interface makes certain funds appear to be unavailable. Caseworkers who aim to provide clients with as many benefits as they may be entitled to under OW legislation must become adept at learning SAMS's language, obtaining the evidence that SAMS requires from their clients, and cleverly inputting this data into the appropriate fields so that SAMS will generate a particular decision. In this sense, SAMS black boxes front-line workers' discretion, as the reasons for a caseworker's decision are not easily discernable to office managers, auditors, other caseworkers, or OW recipients.

Through their responses to SAMS, front-line workers re-skill and re-centre themselves as decision-makers, yet their discretion is distinctly shaped by and exercised in relation to SAMS. In the dialectical back-and-forth between caseworkers and SAMS, caseworkers cannot easily dismiss or evade SAMS's centrality as a decision-maker. The lengths to which caseworkers will go in their creative responses to SAMS seem to depend on their commitment to social work norms (such as preventing hardship, or reaching client-centred decisions), but an equally important determinant is the limited time that workers have available for each client, especially as any deviation from a SAMS-imposed decision requires that caseworkers undertake more onerous data entry tasks, diverting their attention away from their other clients. Further, because SAMS threatens to cancel the benefits of individuals whose data are incomplete, it forces caseworkers to continually engage with its check-boxes and drop-down menus. By threatening to withhold benefit payments from vulnerable OW recipients if caseworkers overlook a single data entry, SAMS uses caseworkers' commitment to preventing hardship against them. The regulatory pressures that this technology places on front-line workers, especially those who are dedicated to professional social work principles, leads workers away from their clients to the system itself. Even as caseworkers learn its language and adjust clients' data so that they can more effectively "manipulate the system" ("Stephanie" Interview), "the system" continues to regulate them in response.

Conclusion

Though case management software may appear to restrict front-line workers' discretion, with its prescriptive data-entry fields and its ability to generate benefits decisions, my findings reveal a more complex reality in which SAMS "produces its own effects" (Lascoumes and Le Galès 2007, 3). SAMS simultaneously marginalizes and reaffirms the centrality of front-line workers, who must still decide what evidence to collect, how to characterize it in SAMS, and which client requests merit the effort needed to "manipulate" the software. Yet, this software fundamentally challenges front-line workers' authority as skilled legal decision-makers by forcing those who are most committed to client-centred decisions to spend more time tweaking data and wrestling with its interface rather than meeting with their clients. These findings may be unique to benefits-delivering agencies that still employ a critical mass of workers committed to meeting professional social work standards. At the very least, they suggest a need for comparative research on off-the-shelf software's effects in other administrative contexts, especially as this software is quickly becoming a conventional regulatory tool.

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While this article does not provide policy solutions, it does offer useful insights for policy-makers. First, any regulatory mechanism's effects depend on how well it addresses the phenomenon it attempts to regulate. When it comes to discretion, regulators can learn from socio-legal researchers who reveal that discretion, though endemic, rarely operates in a law-free vacuum, especially at agencies' front lines, and that front-line workers often sophisticatedly balance the contradictory program purposes that legislators leave unresolved. Second, while automation may be the future of administrative decision-making, policy-makers must consider who retains and who loses access to human decision-makers, and with what effects. Software that requires individuals to fit into pre-set menu options may never be sophisticated enough to deliver complex social benefits to a population as diverse as OW recipients. Rather than re-regulate discretion or increase automation, policy-makers should consider alternative means of addressing persistent poverty, such as a basic liveable income and accessible affordable housing.

References

AG Ontario (Office of the Auditor General of Ontario). 2015. *2015 Annual Report of the Office of the Auditor General*, Chapter 3, Section 3.12—SAMS—Social Assistance Management System. Toronto: Queen's Printer.

———. 2011. *2011 Annual Report of the Auditor General of Ontario*, Chapter 4, Section 4.11—Ontario Works Program. Toronto: Queen's Printer.

———. 2009. *2009 Annual Report of the Office of the Auditor General*, Chapter 3, Section 3.11—Ontario Works Program. Toronto: Queen's Printer.

Austin, Lisa M. 2012. Getting Past Privacy? Surveillance, the Charter, and the Rule of Law. *Canadian Journal of Law and Society* 27 (3): 381–98.

Baldwin, Robert, and Keith Hawkins. 1984. Discretionary Justice: Davis Reconsidered. *Public Law* Winter: 570–99.

Ballucci, Dale. 2012. Subverting and Negotiating Risk Assessment: A Case Study of the LSI in a Canadian Youth Custody Facility. *Canadian Journal of Criminology & Criminal Justice* 54: 203–28.

Bardach, Eugene, and Robert Kagan. 1982. *Going by the Book: The Problem of Regulatory Unreasonableness*. Philadelphia: Temple University Press.

Baumgartner, Mary P. 1992. The Myth of Discretion. In *The Uses of Discretion*, ed. Keith Hawkins, 129–62. Oxford: Clarendon Press.

Bevan, Gwyn, and Christopher Hood. 2006. What's Missing is What Matters: Targets and Gaming in the English Public Health Care System. *Public Administration* 84 (3): 517–38.

Braithwaite, John. 2002. Rules and Principles: A Theory of Legal Certainty. *Australian Journal of Legal Philosophy* 27: 47–82.

Brennan, Richard J. 2014. Scrap welfare software until glitches fixed, union urges. *Toronto Star*, December 18, A6.

Brodkin, Evelyn Z. 1997. Inside the Welfare Contract: Discretion and Accountability in State Welfare Administration. *Social Service Review* 71 (1): 1–33.

———. 2008. Accountability in Street-Level Organizations. *International Journal of Public Administration* 31: 317–36.

CCPA (Canadian Centre for Policy Alternatives). 2016. *Ontario's Social Assistance Poverty Gap*. Ottawa: CCPA.

Commission RSAO (Commission for the Review of Social Assistance in Ontario). 2012. *Brighter Prospects: Transforming Social Assistance in Ontario*. Toronto: Queen's Printer.

https://doi.org/10.1017/cls.2017.6 Published online by Cambridge University Press

Davis, Kenneth Culp. 1969. *Discretionary Justice: A Preliminary Inquiry*. Baton Rouge: Louisiana State University Press.

Diller, Matthew. 2000. The Revolution in Welfare Administration: Rules, Discretion and Entrepreneurial Government. *New York University Law Review* 75 (5): 1121–1220.

Endicott, Timothy. 2002. *Vagueness in Law*. Oxford: Oxford University Press.

Gavigan, Shelley AM, and Dorothy Chunn. 2010. Women, the State and Welfare Law: The Canadian Experience. In *The Legal Tender of Gender: Welfare, Law and the Regulation of Women's Poverty*, ed. Shelley A. M. Gavigan and Dorothy Chunn, 47–74. Oxford: Hart Publishing.

Gilliom, John. 2001. *Overseers of the Poor: Surveillance, resistance, and the limits of privacy*. Chicago: University of Chicago Press.

Gustafson, Kaaryn. 2011. *Cheating Welfare: Public assistance and the criminalization of poverty*. New York: NYU Press.

Halliday, Simon. 2004. *Judicial Review and Compliance with Administrative Law*. Oxford: Hart Publishing.

Handler, Joel, and Ellen Jane Hollingsworth. 1971. *The "Deserving Poor": A Study of Welfare Administration*. New York: Markham.

Hannah-Moffat, Kelly, Paula Maurutto, and Sarah Turnbull. 2009. Negotiated Risk: Actuarial Illusions and Discretion in Probation. *Canadian Journal of Law and Society* 24 (3): 391–409.

Hawkins, Keith. 1992. "The Uses of Discretion: Perspectives from Law and Social Science." In *The Uses of Discretion*, ed. Keith Hawkins, 11–46. Oxford: Clarendon.

Herd, Dean, and Andrew Mitchell. 2002. *Discouraged, Diverted and Disentitled: Ontario Works New Service Delivery Model*. Toronto: Community Social Planning Council of Toronto.

Herd, Dean, Andrew Mitchell, and Ernie Lightman. 2005. Rituals of Degradation: Administration as Policy in the Ontario Works Program. *Social Policy & Administration* 39 (1): 65–79.

IBM Corporation. 2012. IBM Cúram Social Program Management Platform. http://www-03.ibm.com/software/products/en/social-program-management-platform (accessed August 10, 2016).

Jowell, Jeffrey L. 1975. *Law and Bureaucracy: Administrative Discretion and the Limits of Legal Action*. Port Washington: Dunellen.

Lascoumes, Pierre, and Patrick Le Galès. 2007. Introduction: Understanding Public Policy through Its Instruments—From the Nature of Instruments to the Sociology of Public Policy Instrumentation. *Governance* 20 (1): 1–21.

Latour, Bruno. 2005. *Reassembling the Social: An introduction to actor-network theory*. Oxford: Oxford University Press.

Lens, Vicki. 2005. Bureaucratic Disentitlement After Welfare Reform: Are Fair Hearings the Cure? *Georgetown Journal on Poverty Law & Policy* 12 (1): 13–54.

Lipsky, Michael. 1980. *Street-Level Bureaucracy: Dilemmas of the Individual in Public Services*. New York: Russell Sage Foundation.

Mashaw, Jerry L. 1983. *Bureaucratic Justice: managing social security disability claims*. New Haven: Yale University Press.

MCSS (Ministry of Community and Social Services). 2008. *Ontario Works Policy Directive 3.3—Co-Residency*. Toronto: Queen's Printer.

Mosher, Janet. 2010. Intimate Intrusions: Welfare Regulation and Women's Personal Lives. In *The Legal Tender of Gender: Welfare, Law and the Regulation of Women's Poverty*, ed. Shelley A. M. Gavigan and Dorothy Chunn, 165–88. Oxford: Hart Publishing.

Mosher, Janet, and Joe Hermer. 2005. *Welfare Fraud: the constitution of social assistance as crime*. Ottawa: Law Commission of Canada.

https://doi.org/10.1017/cls.2017.6 Published online by Cambridge University Press

Nadasen, Premilla. 2005. *Welfare Warriors: the welfare rights movement in the United States*. London: Routledge.

Oberfield, Zachary W. 2014. *Becoming Bureaucrats: socialization at the front lines of government service*. Philadelphia: University of Pennsylvania Press.

Ontario. 1968. *Royal Commission Inquiry Into Civil Rights*, vol. 1, by Hon. James Chalmers McRuer. Toronto: Queen's Printer.

Pires, Roberto R. C. 2011. Beyond the Fear of Discretion: Flexibility, performance, and accountability in the management of regulatory bureaucracies. *Regulation & Governance* 5: 43–69.

Piven, Frances Fox, and Richard Cloward. 1993. *Regulating the Poor: The Functions of Public Welfare*. New York: Vintage.

Pricewaterhouse Coopers. 2015. Ministry of Community and Social Services: SAMS Transition Review. http://www.mcss.gov.on.ca/en/mcss/programs/social/pwc_final_report.aspx (accessed August 10, 2016).

Prottas, Jeffrey Manditch. 1979. *People Processing: The Street-Level Bureaucrat in Public Service Bureaucracies*. Lexington: Lexington Books.

Sainsbury, Roy. 1992. Administrative Justice: Discretion and Procedure in Social Security Decision-Making. In *The Uses of Discretion*, ed. Keith Hawkins, 295–330. Oxford: Clarendon.

Soss, Joe, Richard C. Fording, and Sanford F. Schram. 2011a. *Disciplining the Poor: Neoliberal paternalism and the persistent power of race*. Chicago: University of Chicago Press.

———. 2011b. The Organization of Discipline: From Performance Management to Perversity and Punishment. *Journal of Public Administration Research and Theory* 21 (Suppl 2): i203–32.

Sossin, Lorne. 2004a. Boldly Going Where No Law Has Gone Before: Call Centres, Intake Scripts, Database Fields, and Discretionary Justice in Social Assistance. *Osgoode Hall Law Journal* 42 (3): 363–414.

———. 2004b. The Politics of Soft Law: How Judicial Decisions Influence Bureaucratic Discretion in Canada. In *Judicial Review and Bureaucratic Impact: International and Interdisciplinary Perspectives*, ed. Marc Hertogh and Simon Halliday, 129–60. Cambridge: Cambridge University Press.

Tani, Karen M. 2016. *States of Dependency: Welfare, Rights, and American Governance, 1935–1972*. Cambridge: Cambridge University Press.

US Dept HHS (Department of Health and Human Services). 2000. *Welfare reform information technology: a study of issues in implementing information systems for the temporary assistance for needy families (TANF) program*. Washington: US Dept HHS.

Wacquant, Loïc. 2009. *Punishing the Poor: The neoliberal government of social insecurity*. Durham: Duke University Press.

Legislation, Regulations, Policy Directives

OReg 134/98—*General Regulation*.

Ontario Works Act, 1997, SO 1997, c25, Sched A.

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