TANF and Domestic Violence: Elements of an Effective Welfare Department Intervention

By Ariella Hyman and Minouche Kandel

A majority of welfare recipients are likely to be survivors of domestic violence. Several studies found that roughly two-thirds of recipients suffered physical abuse at some point in their adult lives and that 20 percent to 30 percent suffered physical abuse in the past year. Batterers often exert economic control over their partners and deprive them of access to family resources. Public assistance may be the only means by which domestic violence survivors and their children can obtain the support they need to escape and live free of violence. In one study of abuse survivors receiving CalWORKs (California's Temporary Assistance for Needy Families program), 37 percent said that domestic violence was their entire reason for applying for aid, and another 18 percent said that the violence contributed to their need for aid. Without welfare, many survivors would have to choose between homelessness and remaining in an abusive relationship. Once a survivor receives Temporary Assistance for Needy Families (TANF), domestic violence may affect the survivor's ability to meet various program requirements. Batterers frequently sabotage their current or former partners' participation in work, school, or training activities. Abusers may stalk or harass their partners at work or school, destroy work clothes or equipment, beat their partners on parts of their bodies that are visible to make them too embarrassed to leave home, or otherwise undermine their partners' efforts toward economic independence. Abuse survivors may have difficulty complying with welfare-to-work activities because they need time for emotional healing, relocation, court appearances, and other matters related to the abuse. Other TANF restrictions may also pose obstacles. For example, child support cooperation requirements may put survivors at increased risk of retaliation. The requirement that teen abuse survivors live with an adult guardian might put them in danger if their abuser would then
know where they live. Family cap provisions that prohibit additional benefits for children born to families on welfare may be particularly harsh for abuse survivors: abusers may rape their partners, withhold contraception, or coerce their partners to carry pregnancies to term.

Given the prevalence of domestic violence among recipients and the importance of public assistance in helping survivors escape abuse, welfare agencies must not ignore this issue. They must intervene with policies that recognize the interrelationships among welfare, work, and domestic violence and develop procedures that respect the health, safety, and confidentiality of survivors and their children. Advocates for survivors must embrace welfare institutions—as we have the criminal justice and health care systems—as integral components of any meaningful, coordinated, communitywide response to domestic violence. Welfare workers may be the only link to support and services for many survivors of domestic violence. If these workers know how to respond appropriately and if effective institutional structures are in place, TANF agencies not only can expand survivors’ opportunities but also can, in some instances, help save lives.

Fortunately certain strategies can address the unique barriers facing domestic violence survivors receiving welfare. In this article we set forth the core elements of an effective welfare department response to domestic violence.

I. The Family Violence Option

Any discussion of effective intervention must include a review of the major federal welfare legislation addressing domestic violence. The Personal Responsibility and Work Opportunity Reconciliation Act, which created TANF, recognized some of the unique barriers facing domestic violence survivors. It gave states the option, commonly known as the Family Violence Option, to enforce standards and procedures to:

1. Screen and identify individuals receiving assistance ... with a history of domestic violence while maintaining the confidentiality of such individuals;
2. Refer such individuals to counseling and supportive services; and
3. Waive, pursuant to a determination of good cause, other program requirements, such as time limits (for so long as necessary) for individuals receiving assistance, residency requirements, child support cooperation requirements and family cap provisions, in cases where compliance with such requirements would make it more difficult for individuals receiving assistance under this part to escape domestic violence or unfairly penalize such individuals who are or have been victimized by such violence, or individuals who are at risk of further domestic violence.

As of May 2001, forty-two jurisdictions had elected the Family Violence Option, and several others had developed policies and procedures to address domestic violence.

The Family Violence Option provides a springboard from which to begin developing an effective intervention for abuse...
survivors applying for or receiving TANF, but it is only a piece of a comprehensive response. Jurisdictions that have selected the Family Violence Option should not stop there, and those that have not may still have strategies available to them.

II. Ten Steps to Effective Welfare Department Intervention

Our suggestions should lay the foundation for a strategy to assist domestic violence survivors applying for or receiving TANF. Our experience in developing model approaches in California through state legislative and regulatory advocacy, through collaboration to institute protocols for local welfare department responses, and through developing and conducting training of staff at welfare, child support enforcement, job training, and domestic violence agencies informs our suggestions. Virtually all of our recommendations are in the San Francisco Department of Human Services' domestic violence/abuse and CalWORKs protocol that a partnership including Bay Area Legal Aid, the San Francisco Department of Human Services, and other community agencies developed. Through statute or regulation, California has adopted many of these suggestions.8

Jurisdictions differ in whether they have adopted the Family Violence Option (and, if so, in what form) and in how receptive legislators and welfare agencies are to addressing domestic violence. The new discretion welfare reform gives states to design their welfare programs forces advocates to be vigilant in monitoring how local TANF programs deliver services. Depending on the unique characteristics of their jurisdictions, advocates might pursue different strategies for implementing our suggestions, such as partnering with local welfare offices to develop domestic violence protocols, engaging in legislative or regulatory advocacy, and sponsoring educational or media campaigns. We hope that readers will draw upon our recommendations to the extent that they are relevant or helpful and utilize the strategies appropriate to their local situations.

Step 1: Notify all TANF applicants and recipients about the services and options available to abuse survivors

Welfare workers must make abuse survivors aware of the requirements, services, and options available to them under the local welfare program. Clear and accurate information may be critical to survivors’ safety planning and to their success within the program. Since many individuals will not disclose the violence in their lives, welfare departments should give this information to all applicants and recipients, whether or not they identify themselves as abuse survivors.

In developing an effective notice, TANF agencies should give careful consideration to both the content and the form of delivery.9 Content should include information about

---

8 Protocol codified in S.F. DEPT OF HUMAN SERVS., CALWORKs PROGRAM INFORMATION MEMO No. 98-10 & addenda [hereinafter SFDHS PIM 98-10] (available from Bay Area Legal Aid).

9 Regulations implementing CalWORKs are in the CAL. DEPT OF SOC. SERVS., MANUAL OF POLICIES AND PROCEDURES [hereinafter MPS], www.dss.ca.gov/getinfo/policypro.html. The National Resource Center on Domestic Violence (800.537.2238), the National Network to End Domestic Violence (202.543.5566), NOW Legal Defense and Education Fund (www.nowldef.org), and others developed resources that we found very useful in developing our approach in California. See, e.g., NOW LEGAL DEF. & EDUC. FUND, MODEL STATUTORY PROVISIONS FOR STATES ADOPTING THE FAMILY VIOLENCE OPTION (1996); JILL DAVIES, NAT’L RESOURCE CTR. ON DOMESTIC VIOLENCE, FAMILY VIOLENCE PROTOCOL DEVELOPMENT, available at www.vawnet.org.

10 The elements that we describe here are from California regulations (MPP § 42-715.133), San Francisco protocols (SFDHS PIM 98-10), and suggestions from Raphael & Haennicke, supra note 7, at 11. For samples of informing language, see CalWORKs Domestic Violence Informing Notice, in SFDHS PIM 98-10, and Raphael & Haennicke, supra note 7, at 10.
- domestic violence and local domestic abuse resources;
- TANF requirements, including child support provisions;
- waivers available if abuse interferes with compliance with a TANF requirement;
- the good-cause exception to cooperation with paternity establishment and child support;
- assistance available in tailoring welfare-to-work plans to meet safety, confidentiality, and other abuse-related needs;
- confidentiality protection and any limits on confidentiality (e.g., mandates to report to child protection agencies); and
- assistance and protection available to battered immigrants.

With regard to form and method of delivering the notice,
- the TANF agency should give information orally and in writing;
- the TANF agency should offer the notice to applicants and recipients several times during the process, including application, recertification, development of a training or work plan, when the TANF agency is considering sanctions, and at the point of referral to a child support agency;\(^{11}\)
- the notice should be clear, in a language that the applicant or recipient understands, and at the appropriate literacy level;
- the notice should avoid terms with which individuals may not identify, such as "battered woman," and instead use language that describes abusive behavior;
- the TANF agency should not bury information about domestic violence in a lot of other material;
- the TANF agency should ask for the applicant's or recipient's signature so that the TANF agency has a record that the applicant or recipient received the notice; and
- the notice should be in duplicate so that the applicant or recipient has a copy to keep.

TANF agencies should consider additional means of conveying this information, including videos or audiotapes in various languages and posters in waiting rooms and bathrooms.\(^{12}\)

The TANF agency should give the informing notice to individuals alone, as survivors can be at increased risk if they receive domestic violence information in the presence of other persons. Rather than discussing abuse with two-parent families at an initial appointment, a worker might wait for a later stage at which separate meetings with each parent could take place without arousing suspicion.

**Diversion from Ongoing Cash Assistance.** TANF agencies may provide "diversion" assistance in the form of services or a lump-sum payment to enable families to respond to a crisis or meet a particular need and thereby avoid the necessity for ongoing cash assistance.\(^{13}\)

Diversion may enable some survivors to find safety by relocating or to avoid relying on the batterer for assets within the batterer's control. Other survivors, however, will need ongoing cash aid to escape their abusers; if TANF agencies divert survivors hastily, survivors might lose an opportunity for critical support. Welfare agencies should notify all TANF applicants of the availability of diversion for abuse survivors and of the domestic violence services the agency provides for recipients of cash aid.

**Step 2: Sensitively identify individuals who are domestic violence survivors**

\(^{11}\) See, e.g., MPP § 42-715.13; SFDHS PIM 98-10 at 7.

\(^{12}\) The New Hampshire Coalition Against Domestic and Sexual Violence produced a videotape that described the Family Violence Option for TANF applicants and went out to local welfare departments; for further information, call 603.224.8893. The Pennsylvania Coalition Against Domestic Violence developed palm cards, posters, and other notice materials for welfare offices; for further information, call 800.537.2238.

\(^{13}\) See chart on "Diversion, Benefits and Assets," at www.welfareinfo.org/Division.htm, for jurisdictions that have adopted diversion.
The Family Violence Option's first prong directs states to identify individuals with a history of domestic violence. Even in states that did not elect the Family Violence Option, advocates should educate the TANF agency about the significance of abuse as a welfare-to-work barrier and the wisdom of identifying survivors and providing supportive services.

Studies conflict on whether asking individuals directly if they are suffering abuse is preferable to giving information about the resources, programs, and waivers available and allowing them to identify themselves as domestic violence survivors. Early studies of Family Violence Option implementation show that abuse survivors are uncomfortable when welfare workers ask them personal questions about their history of abuse. Survivors attributed their reluctance to shame, lack of trust in the welfare worker, fear of retaliation from the abuser, and lack of a private interview space. Very few disclose abuse to their welfare workers.

However, in a Massachusetts study of abuse survivors receiving TANF, 71 percent of persons who disclosed domestic violence and 81 percent of the survey population said that they were "very" or "fairly" comfortable discussing the abuse with their welfare worker. A majority of the survey population in Massachusetts and Minnesota believed that it was better for welfare workers to ask directly than to "expect victims to volunteer the information in response to a notification process or brochure." Rates of disclosure were higher when survey questioners asked recipients directly about violence. Note, however, that independent researchers—not welfare workers—asked the direct questions in two of three studies. Rates of disclosure are likely to vary with the identity of the questioner and the sensitivity with which the questioner raises the topic of abuse.

Regardless of the method of identification, survivors would likely be more amenable to disclosing abuse if they understood the benefits of doing so. Rather than asking general questions about abuse, screeners should ask about abuse in the context of TANF requirements and clearly explain the services, waivers, or other special procedures available to abuse survivors. Welfare departments should advise respondents that answering questions about abuse is optional and explain what will or will not occur if an answer is indicative of abuse. When an individual does disclose abuse or is otherwise identified as an abuse survivor, the TANF agency must provide the individual with resources and offer assistance in accessing desired services.

---


18 *Id.*

19 *Id.*


21 See, e.g., MPP § 42-715.14.

22 A study of New York City's Family Violence Option implementation found that, in violation of New York law, New York City referred fewer than half of all persons disclosing abuse in writing—and no one who orally disclosed—to domestic violence liaisons. The study was a joint project of NOW Legal Defense and Education Fund; the Legal Aid Society, Civil Division; the Woman, Welfare and Abuse Task Force; and the Urban Justice Center; see Marcellene Hearn, NOW Legal Def. & Educ. Fund, Dangerous Indifference: New York City's Failure to Implement the Family Violence Option 1 (2000), available at www.ssw.umich.edu/trapped/pubs.html.
Welfare departments should offer many opportunities for applicants and recipients to disclose abuse confidentially and should not penalize them for failing to acknowledge abuse or choosing at a later stage to identify themselves as victims of abuse.\textsuperscript{23} Exploring abuse is particularly important when recipients are facing sanctions or in a "hard-to-serve" category. Welfare departments not only should gear their protocols toward identifying adult survivors but also must take into account the unique needs of abused teens.\textsuperscript{24}

Another question is who should supply the information on domestic violence and facilitate survivor identification. Research shows that domestic violence advocates obtain four to five times as many disclosures as welfare caseworkers.\textsuperscript{25} Since many survivors are likely to distrust government workers and even to fear that disclosure will result in the loss of their children (see the sidebar "Domestic Violence and Child Abuse Reporting" on page 9), we should explore—for their potential to enhance detection—model approaches in which advocates for survivors act under contract with welfare offices.

**Step 3: Give safety and confidentiality top priority**

Given the potential for serious injury or death in these cases, any welfare agency response to domestic violence must integrate safety and confidentiality measures throughout its program. Welfare staff must discuss safety with survivors and consider safety at all times in handling their cases. The Family Violence Option directs states to identify survivors "while maintaining the confidentiality of such individuals."\textsuperscript{26} Furthermore, the preamble to the federal regulations encourages states to consult with domestic violence service providers as they develop confidentiality procedures and to consider whether additional safeguards, such as staff training and special computer and paper file protection, are necessary.\textsuperscript{27} Advocates should urge TANF agencies to

- make available safe, private space in their offices where persons can discuss abuse and avoid discussing abuse in front of children;\textsuperscript{28}
- give survivors the opportunity to decide how they will receive communications from the agency so as not to jeopardize their safety (e.g., using an alternative mailing address);\textsuperscript{29}
- implement strict confidentiality policies: except where the law requires disclosure or where a written release exists, the TANF agency should not divulge information about victims and their dependents to any outside party, government agency, or a TANF agency employee who has no direct involvement in the case;\textsuperscript{30} and
- avoid using children, family members, and accompanying persons as translators, and be aware that individuals may be reluctant to disclose abuse to a translator from their community.

**Step 4: Discuss available resources and help survivors access them**

The TANF agency, in collaboration with local domestic violence programs, should distribute brochures on domestic violence and community resources to all applicants and recipients of aid, whether or not they disclose themselves as victims of domestic violence. Such brochures

\textsuperscript{23}See, e.g., MPP §§ 42-715.11, 42-715.12, 42-715.14.
\textsuperscript{24}Teen survivors may be at particular risk of being turned away from TANF, and the abuse may interfere with their ability to meet TANF mandates such as the requirement that they live in an adult-supervised setting or attend school. Advocates might consider urging local TANF agencies to assign specially trained workers to review teen applications, discuss waiver options, and furnish appropriate referrals.
\textsuperscript{25}Tolman & Raphael, supra note 16, at 21.
\textsuperscript{27}64 Fed. Reg. 17746 (1999).
\textsuperscript{28}See, e.g., MPP § 42-715.13.
\textsuperscript{29}See, e.g., id. § 42-715.4.
\textsuperscript{30}See, e.g., id. § 42-715.3.
Domestic Violence and Child Abuse Reporting

Many abuse survivors may refrain from disclosing domestic violence to their welfare workers out of fear that the worker may report the abuse to child protective services, which then may remove their children from home. This fear may present a major obstacle to identifying and assisting abuse survivors.

States and localities differ on whether disclosure of domestic violence to a welfare worker will result in a report to child protective services. In some jurisdictions a mention of domestic violence in the household automatically triggers a report. In others welfare workers contact child protective services only if they find evidence of direct abuse to a child.

Advocates should be familiar with the practice in their own jurisdictions, urge that strong confidentiality protocols govern communications between the welfare program and child protective services, and promote a policy that encourages, rather than dissuades, survivors from seeking assistance. At a minimum, if the jurisdiction's policy is that a disclosure of domestic violence triggers a child protection report, the Temporary Assistance for Needy Families agency should inform all applicants and recipients about this policy before discussing domestic violence with the applicants and recipients.

Should be available in the primary languages of the recipients and include information about domestic violence crisis lines, shelters, legal advocacy, counseling and support groups, immigration resources, criminal justice resources, medical services, financial assistance for victims of crime, and services for survivors with overlapping barriers of domestic violence, substance abuse, and mental health.

As soon as one identifies oneself as a domestic violence survivor, the welfare worker should review resources with the survivor in more depth and facilitate access to the resources the survivor believes would be helpful. The welfare worker can do this by making phone calls with the client or by making private phones available for the client to use. Local protocols and training programs should emphasize that whether to pursue a resource must be the individual's choice and that to impose any particular intervention on a survivor may be dangerous or punitive.

TANF agencies must coordinate their efforts with the programs to which they refer abuse survivors. The referrals will likely generate an increased demand for domestic violence–related services, and service providers will need to ensure their capacity to meet the demand.

Step 5: Implement Family Violence Option waivers as broadly as possible

The Family Violence Option defines “domestic violence” broadly to include actual or threatened physical or sexual abuse, mental abuse, sexual activity involving a dependent child, or neglect or deprivation of medical care; the definition has no explicit requirement that the abuser must have a particular relationship to the abused. In states that have not modified or restricted this definition, advocates might argue that the domestic violence provisions should be available to welfare recipients who have experienced violence from someone other than an intimate partner.

In states that have implemented the Family Violence Option, advocates should try to ensure the broadest interpretation allowable under state law. Since often no one witnesses abuse except, in some instances, small children, states should not require corroboration of abuse before making waivers available to survivors. As of May 1, 1999, twenty-eight states permit self-verification of abuse. If additional documentation is necessary, sur-


32 Raphael & Haennicke, supra note 7, at 21–22.
TANF and Domestic Violence

Survivors should be able to use a wide variety of sources to prove the abuse. Various TANF requirements may increase the risk to or unfairly penalize abuse survivors. Federal law does not limit the types of requirements that states may waive. Where not restricted by state law, advocates should argue for the Family Violence Option's applicability to any TANF requirement that creates particular barriers for their clients. Examples of requirements that states may waive where there is a connection to the abuse include:

- time limits on receipt of assistance;
- work activity requirements, including the number of work hours per week;
- education requirements for teens;
- paternity establishment and child support cooperation requirements;
- family cap provisions;
- the requirement that teen parents live in an adult-supervised setting;
- limitations on assistance when the child is absent from the home for a certain number of days;
- provisions that persons with drug-related convictions may not receive assistance;
- immigration status requirements;
- welfare resource limits where resources are inaccessible because of the abuse; and
- any penalty or sanction, including reduction or termination of assistance, for failure to comply with a program requirement.

Waivers that states grant under the Family Violence Option can actually increase states' flexibility in meeting their own TANF requirements. If states can document that domestic violence waivers account for failure to meet federal work participation rates or are the reason why more than 20 percent of their caseload has been on aid paid for by federal dollars for more than five years, states will not receive any penalty so long as the

---

33 See, e.g., CAL. WELF. & INST. CODE § 11477.04(c)-(d); MPP § 42-715.121, which permits numerous sources, including reports from police; courts; domestic violence programs; legal, clerical, medical, mental health, or other professionals; and sworn statements from individuals.

34 Independent of the Family Violence Option, federal law grants states the authority to waive lifetime limits for 20 percent of the TANF caseload "by reason of hardship or if the family includes an individual who has been battered or subjected to extreme cruelty." 42 U.S.C.A. § 608(a)(7)(C) (West Supp. 2000).


36 In San Francisco we successfully used the Family Violence Option to obtain a waiver of the family cap rule for a TANF recipient whose abuser threatened during her pregnancy to kill her if she got an abortion.


38 In San Francisco we successfully used the Family Violence Option to obtain waivers of the deeming requirements in place for persons who entered the country with the affidavit of support in effect before December 19, 1997 (form I-134), and of the requirement that a legal permanent resident whom her abusive husband sponsored furnish the welfare department with copies of the affidavit of support he had signed.

39 California law considers the resources of survivors and their children who are in a shelter for abuse victims inaccessible if, when the survivor applies for assistance, the survivor and member(s) of the household from which the survivor fled jointly own the resources, and the survivor's access to these resources requires consent of a member of the former household. MPP §§ 63-501.5(m), 42-213.110(b).
TANF and Domestic Violence

waivers are "federally recognized good cause domestic violence waivers." In order for a domestic violence waiver to receive federal recognition, (1) the waiver must specify the program requirement that the state is waiving; (2) a person trained in domestic violence must grant it; (3) a service plan must accompany it, and (4) the welfare department must reevaluate the waiver every six months. Someone trained in domestic violence must develop the service plan and tailor it to the participant so that it leads to work, as long as this would not endanger or unfairly penalize the participant.

Advocates must ensure that service plans do not place clients in further danger or revictimize them. The preamble to the federal regulations provides that states should not view service plans as additional requirements. TANF agencies should not be able to sanction a participant for failure to meet the plan's elements. Neither should they require participants to choose a particular kind of service (e.g., counseling, a restraining order, or criminal prosecution) since the dictated service might be inappropriate or put the client at increased risk. The choice of service should be the participant's, in consultation with a domestic violence expert. TANF agencies should not force organizations providing service-plan-required domestic violence services to reveal confidential information about their clients.

Federal law does not limit the duration of waivers. Indeed, the federal law is clear that states should grant waivers "for so long as necessary." Welfare agencies need only reevaluate waivers at least every six months for federal recognition purposes. States have implemented waivers for periods ranging from thirty days, subject to renewal, to an indefinite duration. If a welfare department refuses to grant a waiver, it should put the denial in writing, state the reason for the denial, and allow recipients to appeal the denial through the standard grievance or hearing procedure for other TANF eligibility decisions.

Time Clocks and Waivers. Two time clocks affect TANF recipients. First, adults may not receive TANF cash aid for more than sixty months during their lifetime, with limited exceptions. Second, after twenty-four months on aid, most TANF recipients must engage in state-defined "work" in order to remain eligible. States have the option to shorten these time limits or to use state funding to extend the limits.

Advocates should examine how Family Violence Option waivers of work activity requirements affect both types of time limits in their states. States (or, in some instances, local welfare agencies) may take one of three approaches: stop both clocks automatically for the duration of a waiver (likely the most advantageous option); keep the clocks ticking during the waiver but waive the time limits later if necessary; or count domestic violence activities as work activities and stop neither the work clock nor the lifetime clock.

40 45 C.F.R. §§ 260.55, .58-.59 (1999). Note that the law does not require states to fashion their waivers to meet the requirements for federal recognition. Federal recognition is desirable where a state might otherwise fail to meet required work participation rates or the 20 percent cap on lifetime limit exceptions.
41 Id. § 260.55.
42 Id. § 260.55(c).
46 Raphael & Haennicke, supra note 7, at 20.
48 Id. § 602(a)(1)(A)(ii).
49 Id. § 608(a)(7)(E)-(F).
50 See step 7 infra for a discussion of domestic violence services that are part of a work plan.
TANF and Domestic Violence

The federal regulations implementing the Family Violence Option clarify that states may extend lifetime limits "based on the need for continued assistance due to current or past domestic violence or the risk of further violence." According to the preamble, states may assure victims that "[t]hey can receive assistance for as long as necessary to overcome the effects of abuse, ... extensions will be available in the future based on their current inability to move forward ... and ... they will be able to return for assistance if the need recurs." TANF agencies need not link lifetime limit extensions to a recipient's inability to work.

Step 6: Ensure safe child support strategies

The requirement to cooperate with the state child support enforcement agency in paternity establishment and child support collection is often the first TANF mandate that recipients encounter. It can pose particular dangers for abuse survivors whose partners have threatened retaliation if they pursue support.

In the federal welfare reform legislation, Congress gave states discretion to expand the types of information that recipients must give about the obligor, to develop good-cause exceptions and standards for proving good cause, and to decide which agency should make the good-cause determination. Depending on the state, advocates may have two tools at their disposal when assisting clients who need an exemption from the cooperation requirement: child support provisions may define good cause to include a risk of harm to the custodial parent or child, and the Family Violence Option may be a basis for waiver of the cooperation requirement. Where both avenues are available, advocates should consider the relative standards for granting exemptions and the relative duration of exemptions. The best standard for granting good-cause exceptions would be the same standard that should trigger the Family Violence Option: accepting the client's own sworn statement as sufficient to prove abuse. In any event, the systems for invoking the Family Violence Option and exempting clients from child support cooperation requirements should be consistent and coordinated.

TANF applicants and recipients should receive clear oral and written information explaining the child support enforcement system and the good-cause exception to cooperation. Abuse survivors historically have underutilized the good-cause exception, with one study finding that only 0.1 percent of welfare recipients claimed good cause under the Aid to Families with Dependent Children system. Trained caseworkers should assist survivors in asserting good-cause claims. A majority of abuse survivors will probably want the noncustodial parent to

53 Id.
57 As we discussed earlier, states may impose duration limits on Family Violence Option waivers, and welfare agencies must reevaluate such waivers every six months for federal recognition. A state's child support good-cause provisions should have no duration limit or reevaluation requirement.
pay child support. However, they may still have safety concerns about pursuing support. Advocates should work with the local child support office to enable clients to pursue support without further jeopardizing their safety. Components of a strategy might include

- notifying clients in advance when the child support office serves the other parent with papers or otherwise contacts the other parent;
- excusing clients from attending court hearings where they would encounter the abuser;
- ensuring that a client who must be at a court hearing is never alone with the abuser and that the judge orders the abuser to wait in the courtroom for fifteen minutes after the hearing so that the client may leave safely;
- ensuring that court papers or proceedings do not reveal any identifying information about a client's home or work address; and
- ending prosecution of the support case if at any point it puts the client in increased danger or the client indicates safety concerns.

**Noncustodial Parent Programs.** The Personal Responsibility and Work Opportunity Reconciliation Act made welfare-to-work grants available to states to provide services to certain noncustodial parents to help them increase their earnings and support their children. The law expresses particular concern for protecting custodial parents and children at risk of domestic violence: grantees that intend to serve noncustodial parents must consult with domestic violence organizations in developing the project and may not require the custodial parent to cooperate with or participate in any activity; furthermore, the project should not affect the custodial parent’s ability to claim a good-cause exemption.

**Step 7: Tailor welfare-to-work plans to meet abuse survivors’ needs**

Many abuse survivors want to engage in a work, education, or training program and feel ready to do so. They may believe that this step would help them gain further independence from the batterer and expand opportunities for themselves and their children. They may not need or desire a waiver from work requirements, so long as the TANF agency addresses their abuse-related needs. Advocates and TANF agencies should ensure that, for survivors, waivers are not the only or the primary alternative. Survivors should also have the option of welfare-to-work plans that take into account their needs for safety, confidentiality, and emotional healing.

Welfare workers trained in domestic violence or domestic violence experts working under contract with the TANF agency should explore with recipients how the abuse might pose barriers to employment and how to design work or training plans to address these obstacles. Appropriate adjustments might include on-site security; day care on site or nearby (e.g., if the batterer threatens to kidnap the children); access to a cell phone or panic button; flexible hours or leave policies to permit court appearances, appointments with lawyers, and support group attendance; a parking spot near, transportation to, or escort to the work entrance; avoidance of locations near the perpetrator’s home or work; and strict confidentiality with regard to the work or training placement.

---

60 Griswold et al., supra note 17, at 32–33.
62 Id. § 603(a)(5)(C)(iii)(III)(dd).
63 California recently enacted two laws that protect employees who are domestic violence victims and who take time off from work to obtain relief from the violence, obtain restraining orders, seek medical care, receive shelter services, obtain counseling, or engage in safety planning. CAL LAB. CODE §§ 230, 230.1(Deering 2001).
One strategy that can build flexibility into a work plan is to allow "domestic violence services" to count as a work activity. In California, for example, a welfare-to-work plan may include "domestic violence services" that are necessary to obtain and retain employment. Such services might include abuse counseling, legal services and court proceedings related to the abuse, medical treatment, relocation activities, naturalization classes for immigrant battered women, and substance abuse services. For example, a client might meet her weekly work hour requirements by taking her children to counseling for three hours per week and participating in a job-training program for the required balance of hours.

However, this strategy may result in negative repercussions for clients when one considers time limits. If both the lifetime and work-preparation clocks stop for someone with a Family Violence Option waiver, a waiver would likely be more advantageous to survivors than having domestic violence services count as part of a work plan. If local law allows participants with waivers to "volunteer" for work activities, a survivor may then be able to participate, receive reimbursement for supportive services such as child care, transportation, and ancillary expenses, and still avoid the negative consequence of the ticking clock.

In effect, abuse survivors who need to use their time to obtain domestic violence services may have various options, depending on state laws. They may have an exemption from work activities entirely under the Family Violence Option, receive a waiver of the number of hours that the TANF program requires them to work (for example, work for only twenty hours per week), or have a welfare-to-work plan that consists entirely or partially of domestic violence services. Advocates should consider the impact of these options on time clocks, reimbursement for supportive services (e.g., child care or transportation), and the client's abuse-related needs.

When reviewing an individual's participation in abuse services that are part of the welfare-to-work plan, TANF agencies should make every effort to preserve the confidentiality and integrity of the service provider-recipient relationship. In San Francisco, for example, domestic violence service providers must verify only the number of hours that the participant is receiving services, not the content of those services.

Follow-up services and ongoing support are features of an effective intervention and should be an integral part of TANF services. Since abuse often escalates after a survivor enters training or employment, the TANF agency should review the survivor's work plan continually and adapt it as necessary to maximize the survivor's potential for success.

**Step 8: Ensure accessibility to immigrant battered women**

The availability of TANF to battered immigrants varies with the state's choice in making immigrants eligible for benefits. When formulating policies for welfare and domestic violence intervention, TANF agencies should consider the impact of these options on time clocks, reimbursement for supportive services (e.g., child care or transportation), and the client's abuse-related needs. Advocates should consider the impact of these options on time clocks, reimbursement for supportive services (e.g., child care or transportation), and the client's abuse-related needs.
TANF and Domestic Violence

agencies must not forget immigrants. Outreach is key, both in immigrant communities and through TANF agency notices and orientation. Given the complex interrelation between state and federal welfare and immigration law, welfare workers need precise training to ensure that all eligible battered immigrants who desire TANF actually receive benefits.70

If a state elects to provide TANF benefits to "qualified aliens," a client who meets the definition of "qualified alien" and entered the country before August 22, 1996, is generally eligible.71 Battered immigrants are "qualified aliens" if they have

- a pending or approved petition for permanent residency under the Violence Against Women Act on Immigration and Naturalization Service Form I-360;
- a pending or approved petition from a spouse or parent on Immigration and Naturalization Service Form I-130 or Form I-129(f); or
- a pending or approved application for suspension of deportation or cancellation of removal under the Violence Against Women Act on Executive Office for Immigration Review Form EOIR-42B.

Battered immigrants must show a substantial connection between the need for benefits and the abuse; they must show that they are no longer living with the abuser.72 The abuser could be either the sponsor or a member of the sponsor's family residing in the same household as the victim.

Sponsor Deeming. Ordinarily, when upon entry into the United States an immigrant has a financial sponsor, the sponsor must sign an "affidavit of support." The welfare agency then deems the sponsor's income and resources available to an immigrant who applies for TANF; as a result, the immigrant is usually financially ineligible for benefits.73 Battered immigrants whose abusive sponsors executed an affidavit of support on or after December 19, 1997 (form I-864) are exempt from deeming requirements for up to one year. The welfare agency may extend the exemption if a judicial order has recognized the abuse or the Immigration and Naturalization Service has determined that the abuse occurred.74 Note that persons who have petitioned for legal residency under the Violence Against Women Act do not need a sponsor and are thus exempt from deeming requirements.

Public Charge. Battered immigrants who are considering applying for TANF may worry that receiving public benefits will make more difficult the approval of their residency petition.75 An October 2000 law clarifies that the Immigration and Naturalization Service or the State Department will not consider for public charge purposes the public benefits an abuse survivor receives on the basis of the survivor's Violence Against Women Act petition.76

However, other abuse victims, such as undocumented parents who apply for benefits for their U.S. citizen children, did not receive the same assurances. The Immigration and Naturalization Service's May 25, 1999, guidance and proposed regulations on public charge are silent as to whether immigrants who utilize public benefits while escaping domestic violence...
are public charges and thus inadmissible or deportable. Because the regulations do not list abused immigrants among the exempt categories, the regulations may still consider abused immigrants to be public charges.

Often abusers have prevented their partners from working as part of a pattern of coercive behavior. Thus in addition to arguments that any immigrant might use, immigrant abuse survivors might assert that, once they are able to live free of their partners, they will be able to obtain jobs or pursue training to help them get jobs.

**Using the Family Violence Option for Otherwise Eligible Immigrants.** In states with a broad version of the Family Violence Option, immigrants who are eligible for relief under the Violence Against Women Act but who have not yet applied, or who have applied but have not yet received their prima facie notice, may be able to request a Family Violence Option waiver of their immigration status. Abuse survivors could try similarly to use the Family Violence Option to waive the requirement deeming their sponsor's income to them (if they do not have the aforementioned federal exemption) or requirements that they supply certain documentation that is in the abuser's control.

**Step 9: Train welfare, child support enforcement, and job training staff in domestic violence and effective intervention**

Training in domestic violence for TANF workers is clearly essential and should be mandatory. Child support enforcement workers also must receive training; they need to offer safe strategies for pursuing support and know when safety dictates cessation of case activities. Neither should advocates overlook job training and welfare-to-work programs, whose staff should recognize when abuse interferes with participants' progress and be able to enhance survivors' opportunities for successful program completion. Welfare-to-work programs also may offer an atmosphere in which clients feel more comfortable disclosing abuse.

At a minimum, the training, adapted for each group, should include a review of the following:

- Dynamics of domestic violence.
- Interrelation among domestic violence, poverty, and work; why welfare may be a lifeline to safety for individuals fleeing abuse.
- How abuse may interfere with adult and teen survivors' ability to meet program requirements; how TANF requirements might place survivors at risk.
- Details of the specific policies and programs for abuse survivors under the state welfare program.
- Provisions for battered immigrants.
- How to create a safe, confidential environment in which to discuss abuse.
- How to inform clients effectively regarding waivers, referrals, and other assistance.
- How to tailor services to meet the individual's abuse-related needs.
- How to work with survivors in a way that is sensitive and culturally competent, promotes safety and confidentiality, and expands opportunities.
- Community domestic violence resources and how to facilitate access to referrals.

The ideal training would cover the same steps to a model intervention that we review in this article and would utilize domestic violence service providers as presenters. Domestic violence service providers must also receive cross-training on welfare law, on the specific options

---


78 See supra note 38.

Bay Area Legal Aid developed curricula for training all of these groups; for copies, contact us. See also Jill Davies, Nat'l Resource Ctr. on Domestic Violence, Recommendations for Training TANF and Child Support Enforcement Staff About Domestic Violence (2000), available at www.vawnet.org.
available to survivors under the local program, and on working with TANF agencies to enhance the provision of services to clients.

Advocates should think creatively about how to ensure that training of welfare, child support enforcement, and job training staff occurs. The San Francisco Department of Human Services protocols, for example, specify that organizations that contract with the agency for welfare-to-work services must train their staff in domestic violence, give participants information about domestic violence, ensure that victims are not penalized, and link with domestic violence service providers. Advocates can also point out that federal regulations, recognizing the necessity of domestic violence training, provide that a federally recognized Family Violence Option waiver must be the result of "an individualized assessment by a person trained in domestic violence" and accompanied by a service plan "developed by a person trained in domestic violence." As the preamble states, "[S]taff need some level of special knowledge and expertise in order to make appropriate decisions in these highly sensitive situations."82

Step 10: Ensure ongoing collaboration and monitoring

In order for the aforementioned intervention elements to offer maximum benefits to survivors, we must consider additional factors. Significant coordination and collaboration must occur among the various players, including, at a minimum, TANF workers, child support enforcement staff, job training programs, and domestic violence service providers. To be effective, collaboration should inform and be part of the local response; the federal legislation clearly contemplates such collaboration. The preamble to the Family Violence Option regulations states that under TANF "other public and private agencies can make discretionary decisions on behalf of the TANF agency. In the context of the [Family Violence Option], states have a lot of flexibility in deciding the appropriate roles for TANF staff and domestic violence service providers in administering these provisions."83 Welfare departments and domestic violence service providers around the country are testing various models of collaboration. The list below summarizes the kinds of services domestic violence specialists can provide to TANF clients:

- Present information on domestic violence, available services, and program waivers and options at a group orientation at the TANF agency, one-stop career centers, or job training programs.
- Provide counseling, safety planning, support groups, shelter, legal support, and other domestic violence services and referrals.
- Assist in assessing eligibility for waivers.
- Assist in developing a service plan or work plan.
- Assist with safe child support strategies and good-cause exemptions.
- Participate in case reviews with welfare workers.
- Participate in multidisciplinary teams with mental health and substance abuse experts.

When engaging in some of these activities, domestic violence service providers should be acutely aware of the potential for ethical conflicts to arise. They may put themselves in the position of providing services to clients who see them only because the welfare department requires them to do so, of denying waivers, of reporting client noncompliance with service plans, or of revealing confidential information about client services.

The welfare department can contract with outside providers to deliver services

---

83 Id.
84 Marano, supra note 68.
either at welfare offices (through locating domestic violence services there or telephone paging) or at the office of the outside provider. Alternatively the welfare department can employ its own domestic violence specialist.

Beneficial laws and protocols have limited effect without a continual review of progress and problem areas.\textsuperscript{85} Advocates need to find creative ways to ensure the effective implementation of abuse provisions.\textsuperscript{86} They should press for regular meetings between the welfare department and community groups to review protocol implementation, ensure ongoing training where necessary, and refine procedures.\textsuperscript{87} To ensure protocol compliance, advocates might ask the welfare department to report on a sample of cases to see, for example, whether the department has documentation that the client received notice of services and available options.

III. Looking Toward TANF Reauthorization

Congress will very shortly take a second look at TANF.\textsuperscript{88} Therefore, we must examine how states have been addressing domestic violence in their TANF programs so that we can deal with barriers to successful program implementation. At a minimum, the intervention that we suggest in this article should be attainable in all states. Requiring welfare departments to address domestic violence may serve survivors best.\textsuperscript{89} Other measures might focus on facilitating domestic violence service providers' participation in program development and implementation.

Funding measures are necessary for domestic violence programs to partner with TANF agencies in the following areas: development of protocols, training of welfare staff, providing services to survivors in partnership or through contracts with TANF agencies, and simply absorbing the increased referrals from TANF agencies. Funding streams that TANF agencies and domestic violence advocates can tap to assist in their collaboration include TANF block grants, Workforce Investment Act funds, and Violence Against Women Act monies.\textsuperscript{90}

Larger questions also remain. Federal welfare policy addressed domestic violence in a meaningful way for the first time with the enactment of the Family Violence Option as part of the Personal Responsibility and Work Opportunity Reconciliation Act. Although much more needs to be done, the connection between domestic violence and welfare has finally entered the public discourse. A number of welfare departments around the country have taken positive steps to address domestic violence, and advocates for survivors have developed new partnerships with their local welfare programs. The strong work of advocates in the area of domestic violence was largely responsible for the welfare law's new recognition of domestic violence, but an additional factor is the societal perception of domestic violence victims as a population worthy of assist-

\textsuperscript{85} One study found that New York City was in violation of many state law requirements on Family Violence Option implementation. \textit{Hearn, supra} note 22.

\textsuperscript{86} See \textit{Pamela Jons, Ctr. for Impact Research, Monitoring Domestic Violence Policy and Practice in State Welfare Programs: The Role of Community-Based Groups and Providers (1999), available at} \textit{www.ssw.umich.edu/trapped/pubs.html}.

\textsuperscript{87} \textit{S.F. Dep't of Human Servs., supra} note 80, at 11.

\textsuperscript{88} 42 U.S.C.A. § 603(a)(1) (West Supp. 2000). For helpful information on reauthorization issues, see \textit{www.clasp.org} and contact NOW Legal Defense and Education Fund, 212.295.6635.

\textsuperscript{89} Senators Paul Wellstone and Patty Murray originally intended their family violence amendment to the Senate welfare bill to require states to provide services and necessary waivers to survivors. However, the Conference Committee converted the amendment to a state option. \textit{NOW Legal Def. & Educ. Fund, The Family Violence Option in the New Welfare Law} 1 (1998).

This raises questions that advocates in both areas of public assistance and domestic violence need to ponder as we face TANF reauthorization. Does progress in the area of domestic violence lend legitimacy to otherwise harmful aspects of welfare reform? Are we in danger of further categorizing the poor into those deserving and those undeserving of assistance? Are we at risk of pitting poor people against one another?

Advocates working in the areas of welfare and domestic violence might explore how recognition of the intersection of public assistance and abuse might also be a springboard for positive change. For the first time, a number of domestic violence service providers around the country are becoming involved in welfare issues. If advocates in the antipoverty and battered women's movements join forces, their influence can only increase. Furthermore, domestic violence legislation frequently garners bipartisan support, and the political viability of concerns about domestic violence could be a means to achieve gains for many more individuals receiving public assistance. Advocates can use the increasing awareness of the significance of domestic violence for welfare recipients to counter the moral judgments that have fueled the harshest aspects of welfare reform.91

Authors' Acknowledgments
We wish to thank Clare Pastore, Jody Raphael, Anne Menard, Sherry Lieuward, and Bob Capistrano for their comments in reviewing this article and Zakia Young for research assistance.

TANF and Domestic Violence: Ten Steps to an Effective Intervention

1. Notify all Temporary Assistance for Needy Families (TANF) applicants and recipients about the services and options available to abuse survivors.
2. Sensitively identify individuals who are domestic violence survivors.
3. Give safety and confidentiality top priority.
4. Discuss available resources and help survivors access them.
5. Implement Family Violence Option waivers as broadly as possible.
7. Tailor welfare-to-work plans to meet abuse survivors' needs.
8. Ensure accessibility to immigrant battered women.
9. Train welfare, child support enforcement, and job training staff in domestic violence and effective intervention.
10. Ensure ongoing collaboration and monitoring.

Recommendations for Effective Notice of Domestic Violence Services and Options

In notifying abuse survivors of the requirements, services, and options available to them, TANF agencies should give careful consideration to both the contents of the notices and the form of delivery. Content should include information about

- domestic violence and local domestic abuse resources;
- TANF requirements, including child support provisions;
- waivers available if abuse interferes with compliance with a TANF requirement;
- the good-cause exception to cooperation with paternity establishment and child support;
- assistance available in tailoring welfare-to-work plans to meet safety, confidentiality, and other abuse-related needs;
- confidentiality protection and any limits on confidentiality (e.g., mandates to report to child protection agencies); and
- assistance and protection available to battered immigrants.

With regard to form and method of delivering the notice,

- the TANF agency should give information orally and in writing;
- the TANF agency should offer the notice to applicants and recipients several times during the process, including application, recertification, development of a training or work plan, when the TANF agency is considering sanctions, and at the point of referral to a child support agency;¹
- the notice should be clear, in a language that the applicant or recipient understands, and at the appropriate literacy level;
- the notice should avoid terms with which individuals may not identify, such as “battered woman,” and instead use language that describes abusive behavior;
- the TANF agency should not bury information about domestic violence in a lot of other material;
- the TANF agency should ask for the applicant's or recipient's signature so that the TANF agency has a record that the applicant or recipient received the notice; and
- the notice should be in duplicate so that the applicant or recipient has a copy to keep.