

# THE FAILURE OF THE WELLSTONE-MURRAY FAMILY VIOLENCE OPTION TO PROVIDE MEANINGFUL ASSISTANCE TO SURVIVORS OF DOMESTIC VIOLENCE

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*This paper addresses the failure of the Wellstone-Murray Family Violence Option (FVO), an amendment to the 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), to provide meaningful assistance to survivors of domestic violence. The FVO allows states to waive federal public assistance requirements, such as work requirements and child support collection, for applicants who are survivors of domestic violence. The FVO, however, is inadequately implemented in New York City and across the country. Several suggestions are given to make the FVO more effective.*

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The Wellstone-Murray Family Violence Option (FVO) of the 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) aims to enable survivors of domestic violence, also called intimate partner violence, to achieve safety and self-sufficiency. The FVO allows states to waive public assistance requirements, such as child support enforcement cooperation and work requirements, in order to allow domestic violence survivors, who are primarily female, to safely escape abusive situations and achieve independence. In order to evaluate the success of the FVO, it is vital to consider both the text of the law itself and its practical implementation. The law's primary flaws are its underlying assumption that it will be properly implemented and its lack of provisions for its own enforcement. Although some domestic violence survivors, with the help of the FVO, have been able to escape abusive situations, many other survivors are not screened for domestic violence, or are screened but still forced to comply with public assistance requirements even if compliance jeopardizes their safety. Even though the FVO provides states with considerable flexibility in accommodating public assistance applicants who are domestic violence survivors, the FVO is too often ignored or poorly implemented.

## The Process

### *Screening and Identification*

Every individual who applies for Family Assistance (FA), New York State's version of Temporary Assistance to Needy Families (TANF), must be screened for domestic violence by a caseworker. Individuals are given a domestic violence handout, as well as a small palm card with the same information. The caseworker is obligated to ask direct questions about the presence of domestic violence. Applicants also have the option of filling out a domestic violence screening form, although the completion of the form is not necessary to receive public assistance. When a woman comes in with her partner, the caseworker is supposed to question the two individuals separately if domestic violence is suspected (New York, 1998).

Once an applicant identifies herself as a domestic violence survivor, she is referred to a domestic violence liaison who is trained to recognize when applicants are experiencing domestic violence and to grant the appropriate waivers to keep the applicant safe while she is receiving FA. When an individual is referred to the domestic violence liaison, all other processes related to the application of FA are postponed until the domestic violence liaison completes the assessment. The domestic violence liaison is responsible for evaluating the credibility of the domestic violence report by using corroborative evidence, such as police, medical, and child protective service records (New York, 1998). When verification documents are not available, the liaison may use collateral contacts, or individuals who are aware of the domestic violence, to establish client credibility. In the absence of other evidence, the domestic violence liaison can accept a sworn statement by the survivor as evidence of abuse. All information collected by caseworkers and domestic violence liaisons is confidential with the exception of information about suspected child abuse and neglect, as domestic violence liaisons are mandated reporters (New York).

The domestic violence liaison is responsible for working with the survivor to create a written service plan with the goal of helping the applicant attain safety and self-sufficiency. This plan should include the liaison's recommendations and referrals and must also state which waivers the applicant has been granted and the length of time the waivers will remain in effect. The initial waiver must be for at least 4 months, and the domestic violence liaison must meet with the domestic violence survivor to re-evaluate the waivers every 6 months. The domestic violence survivor

must attend these meetings with the domestic violence liaison in order for the waivers to remain in effect (New York, 1998).

In order for a domestic violence survivor to be granted a waiver from a participation requirement based on the FVO, there must be evidence that compliance with requirements would make it more difficult for the survivor and her children to escape domestic violence or that compliance would subject them to further violence. In addition to exemptions from certain FA requirements, such as work and child support cooperation, domestic violence survivors may also be exempt from the 60 month lifetime limit on public assistance if they can show a physical or mental injury caused by domestic violence or if they are taking care of a child who is disabled as a result of domestic violence (New York, 1998). The most common waiver granted in New York City is a partial waiver on child support enforcement, which allows child support enforcement agencies to pursue absentee fathers for child support without the cooperation of the domestic violence survivor (Hearn, 2000). Waivers are optional in the sense that they can be turned down or terminated without penalty.

### Implementation Failures

#### *Screening Inadequacies*

In New York State, a large number of domestic violence survivors do not get identified during the process of applying for public assistance. It is impossible to measure the full extent of this problem because individual states often do not track the number of applicants who were identified as domestic violence survivors. According to a report by the Government Accountability Office (U.S. Government Accountability Office, 2005), 15% to 56% of welfare recipients are survivors of domestic violence. In 1999, only 3,023 out of 180,000 (1.7%) public assistance applicants were referred to a domestic violence liaison in New York City (Hearn, 2000). Potsmus (2004) reports an even lower percentage (1.1%) of applicants who were identified as survivors of domestic violence in New York State in 1998.

Although New York has a universal notification system, in which everyone who applies for public assistance receives a handout and a palm card about the FVO, this system is insufficient if applicants are not subsequently questioned about domestic violence. The universal notification handout is just one of many handouts that public assistance applicants are given to fill out and, because its completion is optional, applicants may skip

it altogether. Many public assistance applicants failed to even recognize the domestic violence screening form in research studies (Hearn, 2000; Hagen & Owens-Manley, 2002; Lindhorst & Padgett, 2005; Potsmus, 2004; Tolman & Raphael, 2000), which suggests that they never received it or did not read it and consequently may not be aware of their eligibility for the FVO. Illiteracy also severely limits the effectiveness of a written form in screening for domestic violence without follow-up verbal screening; more than three quarters of TANF recipients have limited reading abilities (Lindhorst & Padgett). Written screening for domestic violence cannot be a substitute for direct questioning of public assistance applicants about their domestic violence history. Although most states do require verbal as well as written screening, the verbal requirement should explicitly be included within the text of the FVO (U.S. Government Accountability Office, 2005).

Even when public assistance applicants are asked directly about abuse, many women still fail to disclose. Eligibility interviews rarely happen in a private area because of space constraints, and this lack of privacy can make women uncomfortable during the interview process. New York does not have a privacy policy for interviewing survivors of domestic violence (U.S. Government Accountability Office, 2005) and many women fear that disclosing domestic violence could jeopardize custody of their children. In New York, the domestic violence screening form includes a warning in bold print that any information that indicates that a child might be in danger will be reported to child protective services (Brandwein & Filiano, 2000). Women may also hesitate to alert public assistance workers that they are in a relationship with a man because this information may affect their public assistance eligibility (Lindhorst & Padgett, 2005). Furthermore, caseworkers often carry caseloads of over 100 clients and, consequently, have limited time to spend with each individual applicant (U.S. Government Accountability Office).

### *Waiver Inadequacies*

Just a fraction of applicants identified as survivors of domestic violence receive waivers from public assistance requirements, and many of these waivers are insufficient to meet their needs. Only 1,088 applicants, or 36% of those referred to a domestic violence liaison in New York City in 1999, were granted a waiver (Hearn, 2000). Of those waivers, 84% were partial waivers from work and child support requirements and only 16% of the small percentage of domestic violence survivors granted waivers actually

received full waivers (Hearn). Hearn's study indicates that the majority of those referred to domestic violence liaisons do not receive waivers from public assistance requirements. Hearn suggests that domestic violence liaisons may be using a more stringent standard to grant waivers, such as escalation of violence or a history of stalking, than that which is indicated in the New York State's Administrative Directive (1998).

Hearn (2000) also suggests that partial employment waivers may not be beneficial to domestic violence survivors. The most common partial employment waiver granted in New York City excuses the domestic violence survivor from a work assignment in the borough where the batterer lives. Compelling a domestic violence survivor to travel to another borough for a work assignment does not mean that she will not be followed there by her abuser, but it does guarantee a longer commute time to work, more time spent away from her children, and consequently more obstacles to employment and independence without the assurance of meaningful safety benefits. In addition, partial employment waivers can be confusing for domestic violence survivors, who sometimes mistakenly believe that they do not have to report to work and are subsequently sanctioned. In fact, when Hearn interviewed domestic violence survivors who had met with domestic violence liaisons in New York City, many did not understand what had occurred, or whether or not they had been granted waivers.

### The Social Worker Role

Social workers have the ability and resources to serve as advocates for domestic violence survivors navigating the public assistance system in order to receive the services they need. As advocates, social workers can make sure that domestic violence survivors are properly identified and can help survivors seek redress through a fair hearing system. As policy experts, social workers can use their practical knowledge of the system to recommend effective mechanisms for identifying domestic violence survivors and addressing their needs. Social workers are also ideally suited to act as domestic violence liaisons within the public assistance system. A culturally competent social worker would be able to address the needs of domestic violence survivors in an empathetic and competent manner.

## Conclusion

The inability of the FVO to address the needs of domestic violence survivors creates a population of individuals who cannot fulfill public assistance requirements because of domestic violence, yet might not consider leaving violent situations because of financial constraints. Thus, many women experiencing domestic violence become trapped in a Catch-22 situation. These women wind up cycling between public assistance and low-wage work, and between public assistance and domestic violence (Bell, 2003; Kimmerling & Baumrind, 2004). Survivors of domestic violence who do not disclose abuse are automatically precluded from the special consideration to which they are entitled. Consequently, they do not receive waivers from public assistance requirements and may be forced to place themselves and their children at risk in order to receive public assistance. Women who fail to comply with public assistance requirements because of domestic violence are often sanctioned. Those who are sanctioned for non-compliance with public assistance requirements are ineligible for rental subsidies (Lindhorst & Padgett, 2005) and therefore may also face eviction.

It is impossible for the FVO to adequately address the needs of domestic violence survivors if the law is improperly implemented and lacks provisions for adequate enforcement. In response to a Government Accountability report (U.S. Government Accountability Office, 2005), the Department of Health and Human Services expressed reservations about setting more stringent standards for screening of domestic violence survivors for fear that additional restrictions may deter individual states from passing the FVO (U.S. Government Accountability Office). Without enforcement or restrictions, however, government workers are not obliged to address the needs of survivors of domestic violence who are applying for public assistance. There should be a provision within the law for proper enforcement of the FVO. One preliminary step could be tracking the number of individuals who identify themselves as domestic violence survivors and compare that to the actual incidence of domestic violence.

The FVO is a part of the PRWORA of 1996, which was intended to prune the welfare rolls and make public assistance temporary and work based. PRWORA created a system of mutual distrust between welfare workers and welfare applicants and does not promote flexibility for applicants in extenuating circumstances. It should come as no surprise then that domestic violence survivors distrust their caseworkers and are unwilling

to disclose abuse, or that caseworkers and domestic violence liaisons do not inform applicants about the FVO and do not accommodate those who self-identify as survivors. More importantly, survivors of domestic violence are far less likely to achieve self-sufficiency because the abuse constitutes an additional barrier to meaningful employment and independence. In the absence of provisions and resources for all public assistance applicants to achieve meaningful financial independence, the FVO needs to provide a short-term safety net for those applicants who are survivors of domestic violence.

As is too often the case, laws are passed but not fully implemented and therefore fail to provide meaningful assistance to the people they are intended to protect. This failure is quite apparent in the implementation of the FVO, which has been adopted by 48 states (U.S. Government Accountability Office, 2005). The FVO, though an important legal step towards protecting survivors of domestic violence from further abuse when they leave their relationships, is in practice severely limited by inadequate implementation measures and enforcement provisions. Consequently, the FVO is presently unsuccessful at assisting domestic violence survivors to achieve independence in New York State.

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