

DOMESTIC VIOLENCE AND WELFARE RECEIPT: TOWARD A NEW FEMINIST THEORY OF WELFARE DEPENDENCY

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I. INTRODUCTION

Since 1992, proposals changing and reforming the Aid to Families with Dependent Children Program (AFDC) have littered the national and local landscape.¹ These proposals are largely the direct result of Bill Clinton's campaign promise "to end welfare as we know it,"² and his policy, once in office, of providing waivers to enable the states to experiment with a number of initiatives, including time-limited assistance.³ These reform proposals assume that the problem to be attacked is the growing number of single mothers, now comprising 10.3% of the U.S. population,⁴ who are viewed as dependent on welfare benefits provided by tax-payer dollars.⁵

Based on an assumption that time limits on receipt of AFDC will force women to seek employment, politicians have proposed time-limited AFDC benefits, combined with various work requirements, as the solution to the problem of welfare dependency.⁶ President Clinton's 1994 proposal, which fell by the wayside after the 1994 Congressional elections, placed a two-year limit on cash assistance, but would have provided education

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¹ In addition to President Clinton's proposal, H.R. 4605, *infra* note 7, and the Republican proposal, H.R. 4, *infra* note 8, several states have considered, and many have adopted, welfare reform proposals. For example, Massachusetts, Wisconsin, and Virginia have imposed two-year limits on the receipt of benefits. Elizabeth Ross, *States Step Up Pace of Programs to Curtail Welfare Dependency*, CHRISTIAN SCI. MONITOR, May 7, 1993, at 2; Rogers Worthington, *U.S. Gives Wisconsin Nod to Limit Welfare*, CHI. TRIB., Nov. 2, 1993, at 4, zone N; *Virginia Votes 2-Year Limit on Welfare*, N.Y. TIMES, Feb. 27, 1995, at A9.

² David Whitman, *His Unconvincing Welfare Promises*, U.S. NEWS & WORLD REP., Apr. 20, 1992, at 42.

³ See *Running Out of Patience*, ROCKY MOUNTAIN NEWS, Feb. 1, 1994, at 31A.

⁴ HOUSE COMMITTEE ON WAYS AND MEANS, 1994 GREEN BOOK: OVERVIEW OF ENTITLEMENT PROGRAMS 1154 (Comm. Print 1994) [hereinafter GREEN BOOK].

⁵ See Valerie Polakow, *On a Tightrope Without a Net*, NATION, May 1, 1995, at 590.

⁶ See *supra* note 1.

and training, and eligibility for a subsidized job program if the participant had been unable to find a job in the private sector after the time limit expired.⁷ The welfare reform bill approved by Congress in November 1995, and vetoed by President Clinton, converts AFDC into a block grant to the states, ends the entitlement status of AFDC, and cuts the total federal funds available.⁸ In addition, though it generally allows states to set their own eligibility conditions for the assistance program, it imposes a sixty-month lifetime limit on receipt of federal monies for cash assistance for each individual, and requires that recipients work after they have received AFDC benefits for twenty-four months.⁹ It further mandates federal financial penalties on the states if, by fiscal year 2000, fifty percent of the overall caseload is not involved in work activities narrowly defined by the bill.¹⁰

Critics of these proposals challenge the wisdom of replacing federal welfare programs with block grants, removing their legal federal entitlement status, and cutting federal funds devoted to welfare in the new block grant program.¹¹ Such critics generally question the ability of the states to devise humane and effective income maintenance programs.¹² Others argue that the low job skills of welfare participants,¹³ the lack of affordable child-care, and the unavailability of jobs in the labor market make it difficult to obtain employment.¹⁴ Even if jobs were available, these critics argue, low wages and high costs of child-care might leave families in a worse financial situation than they would be in if they remained on AFDC.¹⁵ They conclude that absent adequate funds for child-care and time and money for education and training, time-limited welfare reform proposals cannot be supported.¹⁶

Recent welfare reform proposals, and the debate surrounding them, are, however, fatally flawed due to their failure to recognize domestic violence as a roadblock to girls and women on welfare who want to become economically independent. Administrators of programs providing literacy and job training to welfare women at the grassroots level during the past five years have learned, contrary to Census data,¹⁷ that

⁷ H.R. 4605, 103d Cong., 2d Sess. (1994); S. 2224, 103d Cong., 2d Sess. (1994).

⁸ H.R. 4, 104th Cong., 1st Sess. (1995).

⁹ See *id.*

¹⁰ See *id.*

¹¹ See, e.g., Mark Greenberg, *The Temporary Family Assistance Block Grant: Frozen Funding, Flawed Flexibility* (Mar. 28, 1995) (on file with the *Harvard Women's Law Journal*) (executive summary from the Center of Law and Social Policy).

¹² See *id.*

¹³ In 1992, only 22.4% of the mothers receiving AFDC had graduated from high school. See GREEN BOOK, *supra* note 4, at 401.

¹⁴ For an example of this critique, see *Women Academics Concerned About Welfare*, NEW REPUBLIC, Jan. 23, 1995, at 15 (signed by hundreds of university professors).

¹⁵ See *id.*

¹⁶ See *id.*

¹⁷ See GREEN BOOK, *supra* note 4, at 401.

many of the women identified as single heads of households are, in fact, living with or are intimately involved with a male.¹⁸ The most likely explanation for this fact is that, because they cannot live on the welfare check alone, many women become dependent on a man who helps to support the family. Furthermore, recent research reveals that many of these males feel threatened by the efforts of their partners to become independent, frequently resorting to emotional coercion and even violence to prevent their partners from gaining education and employment.¹⁹

If a large percentage of women on AFDC experience domestic violence, welfare reform policies intended to push girls and women into the labor market after a short period of time will have an unintended effect: welfare dependency will be eliminated, but their partners may not allow these girls and women to work, making them more economically dependent upon their abusers and more enmeshed in poverty than before.

For the past five years, Taylor Institute, an independent public policy research and advocacy organization in Chicago, has worked with a model welfare-to-work program in Chicago, the Chicago Commons Employment Training Center (ETC), that provides comprehensive services to long-term welfare participants, including on-site literacy and General Equivalency Diploma (GED) classes and assistance with job training and placement. ETC's participant data indicate a strong inverse relationship between current domestic violence and successful program completion.²⁰

In an attempt to corroborate the ETC findings, Taylor Institute undertook a nation-wide telephone survey of grassroots welfare-to-work programs around the country to determine the role of domestic violence in the lives of program recipients.²¹ Even though most programs do not explicitly track this data, many volunteered that domestic violence was one of the most difficult barriers they had to overcome in assisting participants to move off welfare into the labor market. The telephone survey culminated in a report of data from twelve programs that were able to provide statistical evidence for their assertions and thereby sur-

¹⁸ See *infra* notes 20, 24-27, 32.

¹⁹ See Jody Raphael, *Report of the Taylor Institute, Domestic Violence: Telling the Untold Welfare-to-Work Story* (Jan. 30, 1995) (on file with the *Harvard Women's Law Journal*); see also *infra* note 21.

²⁰ In tracking the participants who entered the program between July 1, 1994 and June 30, 1995, ETC found that 56% overall were current victims of domestic violence. Chicago Commons West Humboldt Employment Training Center, *Characteristics of Women on AFDC at the Chicago Commons West Humboldt Employment Training Center 1994-5* (1995) (unpublished report, on file with the *Harvard Women's Law Journal*). Of the 91 women in the study, 31 dropped out of the ETC program, 71% of whom were current domestic violence victims. See *id.* at 1.

²¹ In the survey, Taylor Institute asked staff members at approximately 25 major literacy and job training programs about their experiences regarding domestic violence among their participants. For more information on methodology, see Raphael, *supra* note 19.

faced a strong body of evidence supporting the connection between domestic violence and welfare dependency.²²

Part II of this Article presents these new research findings that reveal the extent to which domestic violence serves as a barrier to self-sufficiency for low-income girls and women on welfare. In Part III, the Article will discuss the dramatic effect of this research on existing theories of welfare dependency. Theories that have historically monopolized the welfare debate, including the "rational choice" model and feminist analyses of patriarchy and gender as they relate to welfare policy, prove inconsistent with the existence of domestic violence and the accompanying syndrome of post-traumatic stress disorder. The pervasive "culture of poverty" or "underclass" theory of welfare dependence describes phenomena similar to, but better diagnosed as, post-traumatic stress disorder.²³ This diagnosis compels a novel comprehensive vision of welfare policy and services, which will be detailed in Part IV.

II. MAJOR FINDINGS OF THE TAYLOR INSTITUTE RESEARCH

A. Grassroots Welfare-to-Work Program Data Reveal a High Percentage of Domestic Violence Cases

Program data indicate both domestic violence and sexual abuse among participants in Chicago; Kansas City; Marshalltown, Iowa; and New York City.²⁴ In addition, two formal program evaluations uncovered evidence that domestic violence interfered with program participation, even though the researchers had not focused on domestic violence specifically.²⁵

²² See Raphael, *supra* note 19.

²³ See *infra* notes 94-103, for a description of post-traumatic stress disorder and a discussion of its impact on welfare theory.

²⁴ At ETC, a welfare-to-work program, 58% of participants who entered between July 1, 1993 and June 30, 1994 were current victims of domestic violence when they came to the program, an additional 26% were past domestic violence victims, 17% were incest survivors or past victims of sexual assault, and 21% were currently addicted to drugs or abusing alcohol. See Raphael, *supra* note 19, at 3. The Women's Employment Network in Kansas City, Missouri, which provides job readiness and placement services for women on welfare, reported that 75-80% of its participants self-reported domestic violence during the course of the program. See *id.* at 4. In 1993, Mid-Iowa Community Action (MICA), a comprehensive family development and self-sufficiency program in rural Marshalltown, Iowa, conducted a survey of 91 heads of households participating in its family development program who had been on welfare for two years or longer. From this study, MICA learned that 22% were current domestic violence victims and 51% were past victims. See *id.* at 3. The Project Est  em program of Family Dynamics Inc. in New York City, which provides a 12-week pre-employment program along with parenting classes, reports that its caseload contains an equal number of abusive relationships and supportive ones. See *id.* at 4.

²⁵ In December 1991, the Manpower Demonstration Research Corporation (MDRC)

In 1992, the Washington State Institute for Public Policy's five-year Family Income Study, the only statistical research effort to date, asked a representative sample of the entire AFDC population in the state of Washington if they had been physically or sexually abused as adults.²⁶ Sixty percent reported some type of abuse.²⁷

B. Domestic Violence Is a Major Barrier to Self-Sufficiency

Program staff report that domestic violence serves as a formidable obstacle to participants' ability to enter the paid labor force.²⁸ Many of the men who move in and out of the lives of women who support themselves and their children with welfare do not want their partners to become economically independent; according to staff, these men sabotage women's efforts to complete employment training programs and enter the workforce.²⁹ The stories relayed to the Taylor Institute researchers by staff members of training programs are remarkably similar. They include multiple cases of the following:³⁰

- The night before an entrance exam or job interview, men engage their partners in night-long quarrels, leaving the women sleep-deprived and unable to perform well.
- Men promise to provide critical child-care or transportation, only to disappear or become inebriated when needed. Others literally hide women's clothing and winter coats.

published the results of a study of 617 women, ages 16 to 22, participating in program sites throughout the country between August 1989 and September 1990. MDRC instructed case management staff at this welfare-to-work program to report various problems only if they interfered with program participation. Across all sites, 16% of enrollees informed program staff that they had been battered by their boyfriends or arrived at the program with visible signs of abuse, and 6% reported being abused by someone other than their partner. In addition, 15% reported discouragement of program participation by their partner, and 9% reported discouragement of program participation by their mother or other close relative. See Raphael, *supra* note 19, at 4. A March 1994 evaluation of the Jackson County, Missouri (Kansas City) FUTURES Program by the University of Missouri at Kansas City found that FUTURES graduates less frequently reported the presence of a significant other in the household than did dropouts and those currently in the program, which may reflect the role of domestic violence by the significant other in impeding program completion. See *id.*

²⁶ Peggy Roper & Gregory Weeks, Washington State Institute for Public Policy, *Over Half of the Women on Public Assistance in Washington State Reported Physical and Sexual Abuse as Adults* (Oct. 1993) (on file with the Harvard Women's Law Journal). For information on methodology, see *id.* at 3.

²⁷ See *id.* at 1.

²⁸ See Raphael, *supra* note 19, at 2.

²⁹ See *id.*

³⁰ See *id.*

- Men batter their partners in highly visible places, so that the women become too embarrassed or too injured to expose their black eyes, bruises, and cigarette burn marks to the outside world.
- Abusers may also come to job training programs and make threats of violence to project staff, most likely hoping that their behavior will result in the participants being barred from the programs.
- Participants also report that their partners visit job sites and create embarrassing or threatening situations, causing them to lose their jobs. Frequent harassing telephone calls from the abuser—especially when the worker is not allowed personal calls on the job—often sound the death knell for retention of employment.

C. More Research Is Needed on the Scope of Domestic Violence Among Welfare Recipients

Since domestic violence has heretofore remained a hidden impediment to completion of job training, there is an urgent need to provide welfare reform policymakers with additional data with which to explore this serious problem. A research agenda should include assessing the extent of the problem in the entire AFDC caseload, as well as determining the factors that enable some domestic violence victims to succeed in entering the labor market, through formal program evaluations and in-depth interviews with participants who are domestic violence victims and program staff.

First, research must focus on determining the percentage of welfare participants who are current victims or survivors of domestic violence. If high percentages were conclusively established, advocates could make a better case for early, in-depth assessment of AFDC participants at welfare department offices and the establishment of effective support services for domestic violence victims before they are forced into the labor market. The Taylor Institute's research may not represent an accurate sample of the entire AFDC caseload for the following reasons. Since the research focused on programs with many voluntary participants, the findings may understate the prevalence of domestic violence in the lives of recipients, since control and domination may prevent a large number of women living under domestic violence from volunteering. On the other hand, women who voluntarily participate in such programs may include a large number of women who wish to gain the economic tools to remove themselves from domestic violence, and, as a result, their numbers may overstate the extent of the problem.

Second, research must differentiate between current domestic violence and violence that has occurred in the past.³¹ In both situations, women

³¹ In its study of domestic violence among welfare recipients, the Washington State

may suffer from post-traumatic stress disorder, but those living with current violence have additional hurdles to overcome, including safety planning and devising alternative living and school arrangements.

Third, research must determine the extent to which domestic violence impedes employment and training. Most welfare-to-work program evaluations, created to determine what percentage of program participants succeed in finding employment and what services were effective in assisting them to this end, have not asked about the issue of domestic violence. Some data indicate that domestic violence is not always an absolute barrier to work; some domestic violence victims are able to go to work or to adapt to the problems created by their abusive partners.³² Program evaluations, if properly devised, could assist in determining which women are able to overcome the domestic violence barrier successfully, what explains the success of certain participants, and what problems unsuccessful participants face.³³ Also, in-depth interviews with participants and case managers at grassroots program sites could enable welfare department personnel, legislators, and policy advocates to have a better sense of the ways in which domestic violence operates as a barrier to labor force participation; thereby providing guideposts for new visions of assessment and service delivery for women on AFDC who are victims of violence.

III. IMPLICATIONS OF DOMESTIC VIOLENCE FOR WELFARE THEORY

As we work to disentangle the various threads of welfare dependency theory, it is important to remember that these theories are not mere academic constructs, but rather, have substantial influence on welfare policy and the lives of families receiving AFDC. None of the current

Institute did not differentiate between current and past abuse. Roper & Weeks, *supra* note 26. By June 1996, the results of a face-to-face randomized survey of 800 AFDC participants in Massachusetts, including questions about past and current abuse, will be available. See CENTER FOR SOCIAL POLICY RESEARCH & CENTER FOR SURVEY RESEARCH AT THE UNIVERSITY OF MASSACHUSETTS-BOSTON, THE PREVALENCE OF DOMESTIC VIOLENCE AMONG MASSACHUSETTS AFDC RECIPIENTS (1996) (on file with the *Harvard Women's Law Journal*).

³² For example, at the Chicago Commons ETC program, although 56% of program participants were current domestic violence victims, only 34% dropped out of the program. Of the sixty participants who remained, 50% were current domestic violence victims. Chicago Commons West Humboldt Employment Training Center, *supra* note 20, at 1.

³³ This year, MDRC will evaluate the long-term success of the 1988 federal welfare-to-work program, the Jobs, Opportunities and Basic Skills Training Program (JOBS), and has proposed to include measurement of the occurrence of current and past domestic violence. See Memorandum from Manpower Demonstration Research Corporation to Jody Raphaël, Executive Director, Taylor Institute (Dec. 11, 1995) (on file with the *Harvard Women's Law Journal*).

welfare theories incorporate the issue of domestic violence.³⁴ More importantly, domestic violence is incompatible with several popular theories of welfare, calling into question some of the policy recommendations that these theories mandate. Because domestic violence experts have been historically disconnected from feminist welfare policy analysts and academics,³⁵ the issue of domestic violence has failed to inform the policy debates about welfare. As a result, feminist welfare scholars have viewed AFDC as a program that has enabled women to live without men,³⁶ a factually inaccurate construct.

Before we can imagine a new, more accurate theory of welfare dependency, it is necessary to review three major theories that emerge in the welfare reform literature: the "culture of poverty"; the "rational choice" model of welfare; and feminist theories of patriarchal welfare policy.

A. "The Culture of Poverty" and its Progeny

1. The "Culture of Poverty" Theory

Both liberal and conservative thinkers and activists embrace the "culture of poverty" theory, based upon observed characteristics of poor people, such as idleness, passivity, and countercultural attitudes and choices. For conservatives, pathology, passivity, and idleness mark the "culture of poverty"³⁷ and can be cured by policies requiring work and responsibility.³⁸ For liberals, despair, hopelessness, and alienation mark the "culture of poverty," otherwise known as "the underclass."³⁹ Although the solutions vary according to the author's explanation for the phenomenon, the most common solution is the provision of greater economic opportunity through education, job training, and subsidized jobs.⁴⁰

For our purposes, we must briefly trace the evolution of the "culture of poverty" concept, which anthropologist Oscar Lewis first developed

³⁴ See *infra* notes 90–115 and accompanying text.

³⁵ See Joan Meier, Domestic Violence, Character, and Social Change in the Welfare Reform Debate (unpublished manuscript, on file with the Harvard Women's Law Journal); see also Lucie White, *No Exit: Rethinking "Welfare Dependency" From a Different Ground*, 81 GEO. L.J. 986–90 (1993).

³⁶ See *infra* notes 75–77, 79–80 and accompanying text.

³⁷ KEN AULETTA, *THE UNDERCLASS* 50 (1982).

³⁸ See, e.g., MICKEY KAUS, *THE END OF EQUALITY* (1992). But see Ruth Conniff, *The Culture of Cruelty*, PROGRESSIVE, Sept. 1992, at 16 (critiquing "culture of poverty" proponent Mickey Kaus).

³⁹ See, e.g., AULETTA, *supra* note 37, at 50.

⁴⁰ See Thomas Kane, *Giving Back Control: Long-Term Poverty and Motivation*, 61 SOC. SCI. REV. 411, 416 (1987).

in his account of a poor Mexican family.⁴¹ Lewis postulated a "culture of poverty," with differing values from mainstream society, that represents a reaction to isolation and alienation caused by poverty.⁴² More controversially, Lewis believed that once the "culture of poverty" comes into existence, it perpetuates itself from generation to generation.⁴³ Nevertheless, it is important to note that commentators embracing the "culture of poverty" theory do not blame poor people for their negative attitudes—since they claim that such attitudes develop in the poor as children—but rather indict the structural conditions that create intergenerational poverty.⁴⁴

2. "Learned Helplessness"

Social scientists developed the theory of "learned helplessness" as an offshoot of the "culture of poverty" theory. According to this theory, the loss of control that results from persistent poverty, and inhibits poor persons' abilities to react to changing opportunities, causes characteristics such as idleness and passivity.⁴⁵ The "learned helplessness" theory attempts to explain why welfare participants appear chronically unable to take advantage of new opportunities, have low self-esteem, and fear to sign up for training programs, or drop out of them over time. Advocates of the "learned helplessness" model claim that living in a persistent state of dependence on others saps their abilities for independent action.⁴⁶ Proponents of this theory recognize that structural changes in the economy, or opportunities for training and jobs, may not be sufficient to move welfare-dependent women to economic independence.⁴⁷ The limited policy recommendations of the "learned helplessness" proponents center on providing choice and autonomy to recipients and marketing voluntary work, training, and education options to welfare women.⁴⁸

3. Searching for the Causes of "The Underclass"

Commentators, in attempting to trace the causes of the observable cultural transformation in low-income communities, have put forward

⁴¹ See OSCAR LEWIS, *THE CHILDREN OF SANCHEZ* (1961).

⁴² See *id.*

⁴³ Oscar Lewis, *The Culture of Poverty*, in *ON UNDERSTANDING POVERTY* 188 (Daniel P. Moynihan ed., 1968).

⁴⁴ See AULETTA, *supra* note 37.

⁴⁵ See Kane, *supra* note 40; see also Leonard Schneiderman et al., *Self-Esteem and Chronic Welfare Dependency*, in *THE SOCIAL IMPORTANCE OF SELF-ESTEEM* 236 (Andrew M. Mecca et al. eds., 1989).

⁴⁶ See, e.g., Kane, *supra* note 40, at 416.

⁴⁷ See *id.*

⁴⁸ See *id.*

conflicting analyses. For Douglas Massey and Nancy Denton, the cause is segregation by race and class, and the answer is integration.⁴⁹ William Julius Wilson, on the other hand, articulates a complex series of factors, including shifts in the industrial base, loss of jobs in the inner city, and poverty concentration, that can only be remedied by massive structural changes to the American economy and society.⁵⁰

The "culture of poverty" theory and its offshoots have also resulted in policy solutions from more conservative thinkers, who believe that time-limited welfare benefits will break the cycle of intergenerational dependency.⁵¹ The time-limited approach of conservatives⁵² has been bolstered by research indicating that education, job training, and job placement opportunities have had only a modest effect on the costs of welfare and the income of participants.⁵³

B. The "Rational Choice" Model

Some commentators have bitterly attacked the "culture of poverty" theory and have minimized, dismissed, or explained away the counter-cultural behaviors underlying the theory.⁵⁴ The rejection of a "culture of poverty" represents an effort to avoid further stigmatization of low-income people, and a fear that describing this behavior as endemic to the culture of poor people will result in a conclusion that they are deviant, that poverty is largely their fault, and that benign neglect is the best policy.⁵⁵ Opponents of the "culture of poverty" theory have countered with a theory of their own: "rational choice." Proponents of the "rational choice" theory allege that women on welfare are making a rational choice to choose welfare over minimum wage jobs that will make them worse off financially than if they were receiving welfare.⁵⁶ Over the last ten years, Charles Murray has done much to popularize the "rational choice" model. As discussed below, unlike Murray's proposal for the total elimination of AFDC, the more liberal proponents of the theory call for efforts to "make work pay" through a package of tax benefits.

⁴⁹ DOUGLAS S. MASSEY & NANCY A. DENTON, *AMERICAN APARTHEID* 170 (1993).

⁵⁰ See LOIC J.D. WACQUANT & WILLIAM J. WILSON, *Poverty, Joblessness, and The Social Transformation of the Inner City*, in *WELFARE POLICY FOR THE 1990s* (Phoebe H. Cottingham & David T. Ellwood eds., 1989).

⁵¹ See, e.g., Stephen Chapman, *Target Practice*, CHI. TRIB., Sept. 24, 1995, § 1, at 21.

⁵² See *supra* note 1.

⁵³ See JUDITH M. GUERON & EDWARD PAULY, *FROM WELFARE TO WORK* (1991).

⁵⁴ See CHARLES MURRAY, *LOSING GROUND* 34 (1984).

⁵⁵ For an explanation of how the "culture of poverty" theory leads to blaming the poor, see HERBERT J. GANS, *THE WAR AGAINST THE POOR, THE UNDERCLASS, AND ANTIPOVERTY POLICY* (1995).

⁵⁶ See MURRAY, *supra* note 54, at 156-60, 211-20.

minimum wage hikes, education and job training opportunities, and creation of subsidized jobs when necessary.⁵⁷

1. The Conservative View: Charles Murray

In his influential 1984 work *Losing Ground*,⁵⁸ Charles Murray blames the AFDC program itself for causing dependency and advocates its complete elimination.⁵⁹ In so arguing, Murray makes clear his rejection of the "culture of poverty." Murray posits that it is rational behavior for poor persons with low basic skills to take advantage of programs like AFDC that make them better off than if they were working.⁶⁰ For Murray, the welfare rules encourage dysfunctional values and behaviors and must be changed.⁶¹ Murray's behavioral development theory allows him to advocate for the elimination of the AFDC program—with local private charity providing services to those who will not work—without blaming poor people, thereby accounting for the attractiveness and durability of his proposal.

2. Response to Murray

While at least one policy expert has directly countered Murray's assertions that the AFDC program itself has created dependency,⁶² others have embraced the "rational choice" theory, but have taken it in different policy directions by focusing on AFDC recipients' ability to find jobs, for example.⁶³ Thus the problem is not welfare, inability to work, or refusal to seek employment, but the lack of jobs in the economy capable of providing the necessary financial support for those citizens who want to work.⁶⁴

One recent study concluded that the results of current research on welfare use do not sustain, but rather seriously undermine, the credibility of the "rational choice" theory.⁶⁵ David Ellwood and Mary Jo Bane

⁵⁷ See MARY JO BANE & DAVID T. ELLWOOD, *WELFARE REALITIES: FROM RHETORIC TO REFORM* 148-60 (1994).

⁵⁸ MURRAY, *supra* note 54.

⁵⁹ See *id.* at 227-30.

⁶⁰ *Id.* at 162 ("There is no need to invoke the spectres of cultural pathologies or inferior upbringing.")

⁶¹ *Id.* at 9.

⁶² See KAUS, *supra* note 38.

⁶³ See BANE & ELLWOOD, *supra* note 57, at 1988.

⁶⁴ For a good example of this argument, see CHRISTOPHER JENCKS, *RETHINKING SOCIAL POLICY: RACE, POVERTY AND THE UNDERCLASS* (1992) (explaining that most welfare mothers are willing to work, but only if they end up with more income than they would have if they stayed home); see also BANE & ELLWOOD, *supra* note 57, at 149-50; ABRAMOVITZ, *infra* note 77, at 367.

⁶⁵ See BANE & ELLWOOD, *supra* note 57.

discuss recent studies within the last few years that have shown that recipients cycle on and off AFDC.⁶⁶ Despite weak economic incentives, women are going to work, but seem unable to sustain employment over time. This evidence of women cycling in and out of AFDC receipt challenges the "rational choice" model, that would predict that very few women would seek to leave welfare.⁶⁷ Second, work and welfare patterns appear to be related to marital status; Ellwood and Bane have found that never-married mothers work far less than divorced mothers, indicating that non-economic factors such as lack of confidence and control may be at play.⁶⁸

Ellwood and Bane theorize that "after a series of failures to leave welfare, women become discouraged and stop trying."⁶⁹ At the same time, a large number of women never appear to go to work, since "an important part of the caseload stays on welfare continuously for many years."⁷⁰ To account for this discrepancy, the authors blend the "rational choice" and "culture of poverty" theories by concluding that perhaps the great uncertainty and complexities of poor people's lives, coupled with a very weak set of economic choices, cause women to become enmeshed in welfare dependency.⁷¹

C. Feminist Theories of Welfare

Understanding the issue of welfare dependency requires viewing it through the lens of gender, particularly in the context of heterosexual relationships. Although one would expect feminists to shed some crucial light on the subject, many feminist welfare experts have failed to discover the implications of relationships between AFDC recipients and their partners.⁷²

⁶⁶ See *id.* at 40. The most recent study indicates that when all moves on and off welfare are considered, nine percent receive AFDC for two years or less, while 76% receive AFDC benefits for a total of five years or more, but this five-year period may consist of several spells of welfare use. See HAROLD BEEBOUT ET AL., THE NUMBER AND CHARACTERISTICS OF AFDC RECIPIENTS WHO WILL BE AFFECTED BY POLICIES TO TIME-LIMIT AFDC BENEFITS 12 (1994).

⁶⁷ See BANE & ELLWOOD, *supra* note 57, at 98.

⁶⁸ See *id.* at 85.

⁶⁹ *Id.*

⁷⁰ *Id.* at 98.

⁷¹ See *id.* at 100-01. For a critique of the "culture of poverty" and "rational choice" theories, see J. David Greenstone, *Culture, Rationality, and the Underclass*, in THE URBAN UNDERCLASS 399 (Christopher Jencks & Paul E. Peterson eds., 1991).

⁷² See, e.g., Dowd, *infra* note 83; ABRAMOVITZ, *infra* note 77; FINEMAN, *infra* note 81 (proposing theories of welfare to escape blaming poor women, but without discussing the role of domestic violence in perpetuating dependency). But see White, *supra* note 35 (recognizing the fact that existing family structures are permeated by control and violence).

1. Reforming the Gendered Labor Market

Many feminists fall into the "rational choice" camp by advocating for substantial improvements in a labor market that discriminates against women, particularly low-income women and women of color.⁷³ Based on its own investigations, for example, the Institute for Women's Policy Research recommends improvements to the minimum wage, enhanced earned income tax credits, and permanent AFDC payments as supplements to low-wage jobs.⁷⁴

2. AFDC as a Bastion Against Patriarchy

For others, however, the specter of patriarchy dominates the debate. For many feminist writers, AFDC provides an important safety net so that women need not depend on men.⁷⁵ "These women do not construct their lives as half of a male-breadwinner, female-homemaker pair, but rather they see their roles as *single* mothers as central to their lives."⁷⁶

In her influential 1988 book on welfare policy, Mimi Abramovitz argues that the AFDC program became controversial when it became apparent that women were being provided benefits "even as they were violating the rules of patriarchy."⁷⁷ The availability of benefits means that women do not need to become involved in the traditional family arrangements held so sacred by conservatives.⁷⁸ Abramovitz concludes that, in addition to challenging the rules of male domination, AFDC allows poor women to stay out of low-level jobs, thereby challenging capitalism.⁷⁹ The solution, emulating the path of "culture of poverty" proponents, is reform of the labor market by assuring employment and

⁷³ See Heidi Hartmann & Roberta Spalter-Roth, *Reducing Welfare's Stigma: Policies that Build Upon Commonalities Among Women*, 26 CONN. L. REV. 901, 909 (1994); see also LINDA GORDON, PITIED BUT NOT ENTITLED: SINGLE MOTHERS AND THE HISTORY OF WELFARE, 1890-1935 37-64 (1994); VALÉRIE POLAKOW, LIVES ON THE EDGE: SINGLE MOTHERS AND THEIR CHILDREN IN THE OTHER AMERICA 61 (1993).

⁷⁴ The Institute for Women's Policy Research has found that many women on welfare work part-time and that combining part-time work with the receipt of welfare benefits will enable single mothers to escape poverty. Hartmann & Spalter-Roth, *supra* note 73, at 909.

⁷⁵ See, e.g., Davis & Kraham, *infra* note 138, at 1142.

⁷⁶ Teresa L. Amott, *Black Women and AFDC: Making Entitlement Out of Necessity*, in WOMEN, THE STATE, AND WELFARE 280, 286-87 (Linda Gordon ed., 1990); see also DOROTHY C. MILLER, WOMEN AND SOCIAL WELFARE: A FEMINIST ANALYSIS 4 (1990).

⁷⁷ MIMI ABRAMOVITZ, REGULATING THE LIVES OF WOMEN: SOCIAL WELFARE POLICY FROM COLONIAL TIMES TO THE PRESENT 355 (1988).

⁷⁸ Bill Krueger, *Religious Conservatives Balance Local, National Interest*, NEWS & OBSERVER, May 7, 1995, at A23 (quoting Ralph Reed Jr., Executive Director of the Christian Coalition, defending the traditional family).

⁷⁹ See ABRAMOVITZ, *supra* note 77, at 355.

training or retraining, improving the minimum wage, and eliminating discrimination, for example.⁸⁰

3. Welfare Reform as an Attack on Single Mothers

Focusing on patriarchy has led another group of feminists to view the attack on welfare as an assault on single mothers. These feminists chastise commentators who equate the public interest with saving the traditional family instead of providing for poor children and their mothers.⁸¹ This approach results in spirited advocacy for policy recommendations that would provide more adequate benefits to enable poor mothers to stay at home to care for their children.⁸²

When feminist family law experts such as Martha Fineman apply their patriarchal theories to welfare policy, they put themselves in a posture of defending female-headed single-parent households and of supporting the dependency of girls and women upon the state. One extreme example of this is Nancy Dowd's recent analysis. In an encyclopedic survey of the stigmatization of female single parents within the legal system, Nancy Dowd summarizes the disadvantaged treatment given single mothers in the areas of adoption, child custody, and paternity.⁸³ Extending her analysis to welfare policy, she observes that current welfare policy and welfare reform proposals also discriminate against unmarried mothers. An attack on single parenthood, she explains, implies that women cannot raise children alone and that their failure to get married is an anti-patriarchal rebellion that must be suppressed.⁸⁴

In defending single parenthood, Dowd proceeds to minimize the effects of teen parenting on young women and their children.⁸⁵ After admitting the "serious problem facing teenage single parents" in the labor market due to low skills and little work experience,⁸⁶ Dowd then

⁸⁰ See *id.* at 367.

⁸¹ See, e.g., MARTHA A. FINEMAN, *THE NEUTERED MOTHER, THE SEXUAL FAMILY AND OTHER TWENTIETH CENTURY TRAGEDIES* 113 (1995). According to Martha Fineman, fear of single motherhood drives welfare policy: "[u]nderlying such labels [of the 'broken' family] is the specter of single motherhood . . . pathological and disease-like, contaminating society, contributing to its destruction and degeneration." *Id.* at 124; see also Lucy A. Williams, *The Ideology of Division: Behavior Modification Welfare Reform Proposals*, 102 YALE L.J. 719, 745 (1992).

⁸² See FINEMAN, *supra* note 81, at 166, 217; see also Martha Minow, *The Welfare of Single Mothers and Their Children*, 26 CONN. L. REV. 817, 826-31 (1994); Gwendolyn Mink, *Welfare Reform in Historical Perspective*, 26 CONN. L. REV. 879, 899 (1994); Dorothy E. Roberts, *The Value of Black Mothers' Work*, 26 CONN. L. REV. 871, 874-75 (1994).

⁸³ See Nancy E. Dowd, *Stigmatizing Single Parents*, 18 HARV. WOMEN'S L.J. 19, 53 (1995).

⁸⁴ See *id.* at 73-74.

⁸⁵ See *id.*

⁸⁶ *Id.* at 44.

brushes the problem aside by alleging that the situation need not be permanent: "It is not at all clear whether teenagers tend to have short-term or long-term problems. With social support, teenage mothers could be educated and employed. The consequences of parenting at a young age need not be disastrous or permanent for teenagers or for their children."⁸⁷

Teen parenting can often result in permanent scars, preventing the development of teens into healthy and productive women.⁸⁸ But rather than advocating policies and programs that prevent teen parenting, Dowd advocates societal support for single-parent families, including education and training, as well as supplemental economic support to teen parents to augment low wages.⁸⁹ Why a justifiable attack on policymakers' tendency to favor patriarchal family structure should lead one to minimize the obvious ill effects of teen parenting remains perplexing and is one example of why feminist thinkers have been marginalized in the recent welfare reform debate.

D. The Factor of Domestic Violence

The impact of domestic violence on the lives of AFDC recipients reveals critical flaws within the main theories of welfare dependency and appears to account for much of the observed behavior of poor girls and women that these theories to date have been unable to explain.

1. "Culture of Poverty" Theory

The "culture of poverty" theory attempts to explain behavior of many poor women that is better diagnosed by domestic violence experts as post-traumatic stress disorder.⁹⁰ Post-traumatic stress disorder describes the traumatic effects suffered by combat veterans and prisoners of war.⁹¹ It has become clear to many psychiatric professionals that this same psychological syndrome manifests itself in survivors of rape, domestic battering, and incest.⁹²

⁸⁷ *Id.* at 44-45.

⁸⁸ See *infra* note 110 and accompanying text.

⁸⁹ See Dowd, *supra* note 83, at 79.

⁹⁰ See Raphael, *supra* note 19, at 2. The misdiagnosis of trauma symptoms as part of the "culture of poverty" mirrors the historical misdiagnosis of women as suffering from hysteria as opposed to suffering from the effects of victimization and violence. See JUDITH HERMAN, *TRAUMA AND RECOVERY* at 10-32 (1992).

⁹¹ AMERICAN PSYCHIATRIC ASSOCIATION, *THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS, DSM-III* (1980). A full description of post-traumatic stress disorder can be found in AMERICAN PSYCHIATRIC ASSOCIATION, *THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS, DSM-IV* (1994).

⁹² See, e.g., HERMAN, *supra* note 90, at 10-20.

The similarities between "culture of poverty" behavior⁹³ and the symptoms of post-traumatic stress disorder are startling. Vocational rehabilitation expert Patricia Murphy has annotated the diagnostic criteria for post-traumatic stress disorder to relate the aspects of the disorder to possible vocational impairments.⁹⁴ The themes of passivity, hostility, and helplessness expounded by the "culture of poverty" theorists permeate her analysis of the effects of trauma. For instance, recurrent and intrusive recollection of the battering event may lead to difficulty in learning and poor concentration, avoiding thoughts or feelings associated with the trauma may result in suppression of creativity, loss of confidence, and fear of new challenges, and a sense of a foreshortened future may lead to a feeling that planning is futile and a predisposition against completion of classes and projects.⁹⁵

These effects on important work skills can explain the less tangible, and seemingly less curable, "culture of poverty." As one writer has expressed, when a person suffers from post-traumatic stress disorder, "[t]he whole apparatus for concerted, coordinated, and purposeful activity is smashed."⁹⁶ Proper diagnosis of observed behavior in poor women is vitally important in providing appropriate and necessary therapy.⁹⁷ Most importantly, experts recognize that identification of the trauma is central to the recovery process for domestic violence victims.⁹⁸

Also relevant to welfare policy is the relationship between low reading skills and domestic violence.⁹⁹ Patterns of domestic violence often include verbal and emotional abuse that may extensively damage the intellectual development of the abused women.¹⁰⁰ Abused women are told over and over that they are unintelligent, incompetent, or dumb.¹⁰¹ Over time, the effects of this upon potential skills or vocational development may be more detrimental than the consequences of physical abuse.¹⁰²

⁹³ See *supra* notes 37, 39, and accompanying text.

⁹⁴ PATRICIA A. MURPHY, A CAREER AND LIFE PLANNING GUIDE FOR WOMEN SURVIVORS: MAKING THE CONNECTIONS WORKBOOK 53-56 (1995).

⁹⁵ See *id.* at 53-94.

⁹⁶ ABRAM KARDINER & HERBERT SPIEGEL, WAR, STRESS AND NEUROTIC ILLNESS 186 (1947), quoted in HERMAN, *supra* note 90, at 35.

⁹⁷ See HERMAN, *supra* note 90, at 118-19.

⁹⁸ See *id.* at 127; see also Lenore E. Walker, *Post-Traumatic Stress Disorder in Women: Diagnosis and Treatment of Battered Woman Syndrome*, 28 PSYCHOTHERAPY 21, 25-27 (1991) (discussing treatment techniques to help abused women cope with "re-experiencing the trauma" through therapy).

⁹⁹ See MURPHY, *supra* note 94, at 235.

¹⁰⁰ See *id.*; see also MARY FIELD BELENKY ET AL., WOMEN'S WAYS OF KNOWING: THE DEVELOPMENT OF SELF, VOICE, AND MIND 158-59 (1986).

¹⁰¹ See MURPHY, *supra* note 94, at 235; see also ELLEN L. PENCE & MICHAEL PAYMAR, POWER AND CONTROL: TACTICS OF MEN WHO BATTER: AN EDUCATIONAL CURRICULUM (1986); LENORE E. WALKER, THE BATTERED WOMAN SYNDROME 27 (1984) (finding psychological abuse inflicted by batterers includes "humiliation, denial of victim's powers, and verbal name calling").

¹⁰² See BELENKY ET AL., *supra* note 100, at 163 (discussing the significance of intellectual development in order for women to escape domestic violence); see also

Many verbally abusive partners, who perceive that the development of good reading skills means that their partners will have access to information that is not screened and controlled by them, convince the women that they are not good readers.¹⁰³

2. The "Rational Choice" Model

Although the "culture of poverty" theory may be consistent with domestic violence on some levels, the "rational choice" model is an inadequate predictor of behavior, given its failure to acknowledge the unique problems facing victims of domestic violence. Many women receiving welfare either do not think of themselves as participating in the labor market due to their financial dependence on men or are prevented from participating by men.¹⁰⁴ Thus, it is very unlikely that enhanced education and training, tax reform, higher minimum wages, or any other labor market solutions promoted by the "rational choice" proponents, although necessary, will be adequate and effective in enabling women living with domestic violence to maintain employment. Indeed, domestic violence probably accounts for much of the pattern of cycling on and off welfare, as well as the puzzling inability of basic skills and job training programs to result in large scale employment for women on welfare.¹⁰⁵ Faced with emotional coercion, physical violence, and outright sabotage, many women abandon their training and employment and return to the home.¹⁰⁶

3. Feminist Approach, Theories of Patriarchy

Reports of widespread domestic violence in relationships between single mothers on welfare and abusive men confront feminist welfare theory and disrupt its basic tenet. Evidence that many women receiving AFDC are in relationships with men suggests that most women are not using welfare to gain independence from patriarchy.¹⁰⁷ Rather, the existence of AFDC with its low benefit structure has encouraged girls and women to become enmeshed in relationships with men who support them but are often controlling and abusive. Often these relationships

Catherine F. Klein & Leslye E. Orloff, *Providing Legal Protection for Battered Women: An Analysis of State Statutes and Case Law*, 21 HOFSTRA L. REV. 801, 872 (1993) (reporting that one survey found 72% of battered women believed that the emotional abuse they suffered had a more harmful impact than the physical abuse).

¹⁰³ See MURPHY, *supra* note 94, at 235.

¹⁰⁴ See Raphael, *supra* note 19, at 8.

¹⁰⁵ See *supra* notes 94-96 and accompanying text.

¹⁰⁶ See Raphael, *supra* note 19, at 1-3; see also Zorza, *infra* note 139, at 277 (reporting that 20% of all employed battered women lose their jobs because of harassment by their abusers at the workplace).

¹⁰⁷ See, e.g., Raphael, *supra* note 19, at 7-9.

permanently prevent low-income girls from developing a sense of themselves as independent persons.¹⁰⁸ The seriousness of this problem cannot be overstated.¹⁰⁹

The problem of teenage pregnancy is one disturbing form of this phenomenon.¹¹⁰ Abusive relationships with controlling older men who promise to support them may permanently prevent low-income girls from developing as independent persons and gaining the skills they need to participate in the labor market.¹¹¹ Trapped on welfare and in detrimental relationships, poor girls and women have an extremely difficult time extricating themselves from this situation.¹¹² They and their children may face such a risk of physical harm that escape proves to be totally impossible.¹¹³ When abused women leave their partners, they often face heightened risk of harm.¹¹⁴ The scars from domestic violence, in the form of post-traumatic stress disorder, may also permanently prevent employment, especially through damage to intellectual development.¹¹⁵

¹⁰⁸ According to Patricia Murphy, when domestic violence occurs during the ages of 13 to 26—the time when young women should be building their skills and developing their work identity—it is especially detrimental. See PATRICIA A. MURPHY, MAKING THE CONNECTIONS: WOMEN, WORK, AND ABUSE 191 (1994).

¹⁰⁹ See BELENKY ET AL., *supra* note 100, at 163 (recognizing the implications of victim psychology for future generations).

¹¹⁰ See JUDITH S. MUSICK, YOUNG, POOR, AND PREGNANT: THE PSYCHOLOGY OF TEENAGE MOTHERHOOD 99–101 (1994) (recognizing that “[o]ne of the premier tasks of adolescence is to relinquish the early parent-child relationship [that] enables the adolescent to move toward greater independence and adult life goals and relationships.” Often poor, pregnant, adolescent girls have not reached this stage of development, leaving them vulnerable to “the pulls of potentially harmful behaviors virtually irresistible if they promise to satisfy unfulfilled longings and to make up for past hurts”); cf. POLAKOW, *supra* note 73, at 63–80 (detailing personal narratives of teenage mothers who “fight desperately against succumbing to the statistics”).

¹¹¹ See MURPHY, *supra* note 108, at 191; see also *supra* notes 94–96, 99–103, and accompanying text.

¹¹² See Davis & Kraham, *infra* note 138, at 1146. Although 50% to 90% of abused women attempt to escape their violent relationships, they are often hindered by the batterer's explosive response and economic hardship. See *id.*; see also Susan Schechter and Jeffrey L. Edleson, *In the Best Interest of Women and Children: A Call for Collaboration Between Child Welfare and Domestic Violence Constituencies*, PREVENTION REPORT, Spring 1995, at 5 (discussing the economic, social, and safety hurdles faced by battered women who try to flee from their abusive partners).

¹¹³ See Martha R. Mahoney, *Legal Images of Battered Women: Redefining the Issue of Separation*, 90 MICH. L. REV. 1, 5–6 (1991). In fact, 31.5% of all female homicide victims in the United States are murdered by their husbands or boyfriends. See Joan Zorza, *Women Battering: High Costs and the State of the Law*, 28 CLEARINGHOUSE REV. 383, 387 (1994); see also ANN JONES, NEXT TIME, SHE'LL BE DEAD: BATTERING AND HOW TO STOP IT 129–66 (1994).

¹¹⁴ See *supra* note 113; see also LENORE E. WALKER, TERRIFYING LOVE: WHY BATTERED WOMEN KILL AND HOW SOCIETY RESPONDS 65–66 (1989); Davis & Kraham, *infra* note 138, at 1146.

¹¹⁵ See MURPHY, *supra* note 94, at 235; see also *supra* notes 99–103 and accompanying text.

E. Toward a New Feminist Theory

During the last ten years, “culture of poverty” and “rational choice” proponents have pushed the parameters of the welfare reform discussion and, in doing so, have set welfare research and policy in the wrong direction. Remedies under both theories have obviated the need for further research and investigation. For example, under the “rational choice” model, there is no further need to research the ways in which women on welfare live because the solution is to provide entry level jobs with higher wages in the economy for women on welfare with low basic skills.¹¹⁶

To date, feminists have been unable to dislodge these theories because their own constructs of patriarchy have led to the defense of single-parent households as well as teen pregnancy.¹¹⁷ To state that teenage parenthood is unhealthy and destructive to young girls does not mean embracing the stereotype of the nuclear family. Recognition of the dead-end nature of many of these girls' involvement with abusive men constitutes a strong anti-patriarchal statement and could lead to policies that truly enable young girls to develop and establish themselves without dependence upon men. The goal of feminist welfare policy should be the preservation of conditions of autonomy and independence for girls and women.¹¹⁸

A new feminist theory requires a close look at the roles and behavior of men in the lives of low-income women. The caretaker allowances, advocated by Martha Fineman and others¹¹⁹ as an alternative to work, could only prevent dependence of women on men if they were generous enough to put women and their children well above the poverty line,¹²⁰ a policy unlikely to happen in the current political climate.¹²¹ Moreover, these allowances could be dangerous, because they might attract low-skilled, low-income men to women possessing these stipends, and these men might use coercion and violence to maintain access to the funds.¹²² Skills development and labor market participation are critical ingredients for greater independence of women from abusive men. Women's employment remains threatening to many men because in earning a salary,

¹¹⁶ See *supra* note 57 and accompanying text.

¹¹⁷ See Dowd, *supra* note 83, at 73–74.

¹¹⁸ See Virginia Sapiro, *The Gender Basis of American Social Policy*, in WOMEN, THE STATE, AND WELFARE 36, 51–52 (Linda Gordon ed., 1990) (recognizing that what is missing from American social policies is “preservation of conditions of autonomy”).

¹¹⁹ See *supra* note 82 and accompanying text.

¹²⁰ In 1994, Alaska was the only state that provided AFDC benefits above the federal poverty line. See Sarah Buel et al., *Harvard Law School Battered Women's Advocacy Project: Training and Resource Manual* 11 (1994).

¹²¹ See *supra* note 1.

¹²² See *infra* note 130 and accompanying text.

women participate in the larger world, have access to new information and experiences, can obtain support from office mates, and may succeed well beyond the level of their male partners.¹²³ Ultimately, it is doubtful that women can avoid or escape domestic violence unless they have the means to support themselves and their children on their own.¹²⁴

IV. POLICY AND PRACTICE IMPLICATIONS OF DOMESTIC VIOLENCE: DEVELOPING A NEW WELFARE REFORM AGENDA

A. Welfare Policy

Striking evidence of domestic violence among AFDC recipients compels the development of new welfare policies that take into account the issue of domestic violence.¹²⁵ AFDC recipients who are domestic violence survivors or victims of domestic violence need time to eliminate domestic violence in their lives and recover from post-traumatic stress disorder, given its serious effects on their ability to manage labor market participation.

Time-limited welfare reform efforts¹²⁶ may well exacerbate domestic violence where it already exists and trigger controlling and abusive behavior by their partner, when many women, for the first time, are required to work.¹²⁷ Some state initiatives—made possible by the Department of Health and Human Services' waivers of applicable provisions of current federal welfare law—already impose strict time limits.¹²⁸ Anecdotal evidence from program providers suggests that many men, threatened by their partners' obtaining education and job training, will continue to prevent them from working, even at the risk of losing welfare benefits.¹²⁹ Even when battered women are able to work, often they are coerced into relinquishing their earnings to the abuser.¹³⁰

¹²³ See Raphael, *supra* note 19, at 2; see also Jason DeParle, *Welfare Mothers Find Jobs are Easier to Get Than Hold*, N.Y. TIMES, Oct. 24, 1994, at A1; see also *infra* note 161 and accompanying text.

¹²⁴ See Davis & Kraham, *infra* note 138, at 1150-57; see also Mary Ann-Dutton, *Understanding Women's Responses to Domestic Violence: A Redefinition of Battered Woman Syndrome*, 21 HOFSTRA L. REV. 1191, 1233-34 (1993) (noting that without sufficient resources, it may be impossible to pay for child care and medical expenses, to obtain a residence, and to acquire the necessary education to become self-sufficient).

¹²⁵ See Raphael, *supra* note 19, at 3-5; see also notes 20, 24-26 and accompanying text.

¹²⁶ See, e.g., H.R. 4, *supra* note 8.

¹²⁷ See *supra* note 123; see also Davis & Kraham, *infra* note 138, at 1151-52; Zorza, *supra* note 113, at 384-85.

¹²⁸ See *supra* note 1.

¹²⁹ See Raphael, *supra* note 19, at 9.

¹³⁰ See Kathleen Waits, *The Criminal Justice System's Response to Battering: Understanding the Problem, Forging the Solutions*, 60 WASH. L. REV. 267, 288-89 (1985).

Even if time limits encourage many women to end violent and abusive relationships in an effort to go to work, there may be a possibility of serious injury, or even death, in the process.¹³¹ The process of safe removal often takes time; among other problems, there may be no beds available in a battered women's shelter.¹³² Another reason time limits are inappropriate is that survivors of domestic violence may still be suffering from the effects of post-traumatic stress disorder and will need more time and specialized services than will be available under time-limited programs.¹³³

Under any welfare reform proposal, in order for domestic violence victims to have the necessary support of AFDC while they seek training or employment, welfare departments must properly assess the presence of domestic violence or past domestic violence in the lives of AFDC participants. At the same time, policymakers must establish guidelines that prevent negative consequences for AFDC participants who report domestic violence to a welfare department. For example, reporting domestic violence in the home could result in the intervention of a state child protection agency unless confidentiality has been established.¹³⁴ In addition, federal law requires that if there is a man in the house providing income, the income be attributed to the woman and her children under certain circumstances.¹³⁵ Unless it is waived, this rule could also deter AFDC participants from admitting to their experience with domestic violence because it would result in a decrease in benefits.

In addition, the assessment process will require uniform definitions of domestic violence for good-cause exemptions from time limits. States must also make difficult decisions about the type of documentation or corroboration needed to obtain an exemption. Implementation of certain documentation requirements could further endanger the welfare participant. For example, requiring a police or arrest record as corroboration sounds reasonable on its face, but many abused women know that if they involve the police, the abuse will intensify and, for this reason, they do not routinely summon the police.¹³⁶

¹³¹ See *supra* notes 113-114.

¹³² See Joan Zorza, *Woman Battering: A Major Cause of Homelessness*, 25 CLEARINGHOUSE REV. 421 (1991). Experts estimate that less than two percent of battered women can find shelter space. See *id.*

¹³³ See HERMAN, *supra* note 90, at 155-56.

¹³⁴ See Linda J. Panko, *Legal Backlash: The Expanding Liability of Women Who Fail to Protect Their Children from Their Male Partner's Abuse*, 6 HASTINGS WOMEN'S L.J. 67 (1995).

¹³⁵ See 42 U.S.C. § 602(a)(7)(A) (West 1988 & West Supp. 1995).

¹³⁶ See David Adams, *Identifying the Assaultive Husband in Court: You Be the Judge*, BOSTON BAR J., July/August 1989, at 23 (reporting that battered women are most likely to be killed when attempting to report the abuse or to leave the relationship).

Other policy adjustments are necessary if AFDC reform efforts are to become sensitive to the issue of domestic violence. Policies, for example, that mandate that minor AFDC participants live at home in order to receive benefits may consign them to remaining in abusive situations.¹³⁷ In addition, two-tiered benefit schemes, like that adopted by California, that pay lower benefits to AFDC participants who move between states could also deter or punish the many women who cross state lines in order to escape violence.¹³⁸

Heightened child support enforcement is also problematic for AFDC participants who are violence victims. Abuse is often exacerbated or reactivated when legal action is taken against the male partner for child support.¹³⁹ In addition, many abused women are afraid to seek child support because they fear that receipt of child support will result in visitation rights that would in turn force disclosure of their new location.¹⁴⁰ Current federal law conditions the receipt of AFDC on the caretaker's cooperation in establishing paternity and child support, but the law provides "good cause" exemptions.¹⁴¹ Data show, however, that less than one percent of AFDC applicants nationally use this option.¹⁴² There has been no formal research to date, but concerns by AFDC applicants about confidentiality may limit use of this exemption. Thus policymakers must craft state practices in the area of paternity and child support carefully to provide necessary protection for battered women.

Likewise, welfare departments must understand and identify domestic violence in order to avoid punishing women who have been unable to comply with various cooperation requirements. Missed appointments and failure to follow through on referrals could be the result of the efforts of abusive males to prevent women from leaving the home for this purpose.¹⁴³ Women should not be penalized with loss of benefits.

¹³⁷ See Roper & Weeks, *supra* note 26, at 1-2. The link between sexual abuse and teen parenting raises concerns about policies that require teens to remain in the home. A recent study conducted in Washington State of young women who were pregnant or parenting teens found that 66% of these young women were sexually abused as children. See *id.*

¹³⁸ See Martha F. Davis & Susan J. Kraham, *Protecting Women's Welfare in the Face of Violence*, 22 FORDHAM URB. L.J. 1141, 1156 (1995).

¹³⁹ See Joan Zorza, *Recognizing and Protecting the Privacy and Confidentiality Needs of Battered Women*, 29 FAM. L.Q. 273, 276-77 (1995).

¹⁴⁰ The Uniform Child Custody Jurisdiction Act requires an affidavit that discloses the child's current address as well as past addresses within five years. UNIF. CHILD CUSTODY JURISDICTION ACT § 9, 9 U.L.A. 266 (1994). Some states, however, have incorporated confidentiality provisions of certain information. See The Family Violence Project of the National Council of Juvenile & Family Court Judges, *Family Violence in Child Custody Statutes: An Analysis of State Codes and Legal Practice*, 29 FAM. L.Q. 197, 206 (1995).

¹⁴¹ See 42 U.S.C. § 602(a)(26)(B) (West Supp. 1995). If cooperation is reasonably anticipated to result in serious physical harm or serious emotional harm to the child or parent, the caretaker is deemed to have "good cause" for not cooperating. See *id.*

¹⁴² See 60 Fed. Reg. 33, 211 (1995).

¹⁴³ See *supra* note 30 and accompanying text.

Allegations that an abusive partner is providing unreported income to the household in welfare fraud prosecutions are also problematic in situations where the battered woman has been unable to remove the abuser from the home.

B. Other Services

1. Shelters

Historically, the site of most services to battered women and their children has been battered women's shelters.¹⁴⁴ But as Victim Services in New York City has pointed out, many of the women it serves are reluctant to identify themselves as battered because they are embarrassed or ashamed to admit being abused and, for this reason, do not avail themselves of the services of shelters.¹⁴⁵ Due to legitimate fears about physical safety and economic support, women remain with batterers, necessitating the provision of support services to victims who remain in abusive situations.¹⁴⁶ For this reason, information, support, and counseling must be available on an out-patient basis at various points in the community, including health care providers and religious institutions. Often women in abusive relationships ask for family counseling for themselves and their partners in order to keep their family together, services that battered women's groups historically have not provided.¹⁴⁷ Battered women's shelters must also explore how they might better contribute to women's self-sufficiency. Many battered women's shelters currently provide welfare advocacy as a means of economic survival for women and children once they leave the shelter.¹⁴⁸ In addition, some shelters require women to quit their jobs once they enter a shelter so that the abuser cannot follow them from work to the shelter.¹⁴⁹ With the

¹⁴⁴ See R. EMERSON DOBASH & RUSSELL P. DOBASH, *WOMEN, VIOLENCE AND SOCIAL CHANGE* 64-70 (1992).

¹⁴⁵ Lucy N. Friedman, Executive Director of Victim Services, Rethinking Social Services for Battered Women, Remarks at the Commonwealth Fund Symposium, Domestic Violence and Women's Health: Broadening the Conversation 7 (Sept. 20, 1995) (on file with the Harvard Women's Law Journal).

¹⁴⁶ See *supra* notes 112-114, 124, and accompanying text.

¹⁴⁷ See Friedman, *supra* note 145, at 11; see also Edward W. Gondolf, *Anger and Oppression in Men Who Batter: Empiricist and Feminist Perspectives and Their Implications for Research*, 10 VICTIMOLOGY: INT'L J. 311, 317 (1985). "Family counseling is particularly suspect because it tends to displace the responsibility for the violence and does not address the underlying power differential." *Id.*

¹⁴⁸ See Joyce Klemperer, *Programs for Battered Women—What Works?*, 58 ALB. L. REV. 1171, 1181 (1995); see also Davis & Kraham, *supra* note 138, at 1150.

¹⁴⁹ Telephone Interview with Dolores Aguirre, Outreach Coordinator, Transition House (Mar. 8, 1996) (women who enter the shelter are required to cut all ties from the job, school, and neighborhood that they are leaving for security purposes); Telephone Interview with Kate Cloud, Executive Director, Respond (Mar. 7, 1996) (if the abuser is not removed from the home, the woman must leave the shelter).

implementation of time-limited AFDC benefits, battered women's service groups will have to explore other avenues of self-sufficiency for women.¹⁵⁰

2. Employment Services

Literacy, General Equivalency Diploma (GED), and job training programs need to be more responsive to the issue of domestic violence as well. As women victims of violence are attempting to upgrade their skills while either experiencing domestic violence or recovering from verbal/emotional abuse that interferes with their ability to learn, they need extraordinary support and patience. For example, in order to provide necessary discipline, most training programs have strict attendance policies. These may adversely impact some violence victims, who will need to try training repeatedly before being successful. Job training and placement program staff will require training in domestic violence and its assessment; job training and placement programs need to have the capacity to provide specialized therapeutic and vocational rehabilitative services for domestic violence victims.

In addition, trauma experts have much to contribute to the welfare reform debate by providing models for treatment. According to psychiatrist Judith Herman, an expert on post-traumatic stress disorder, recovery must occur in several stages: recognition of the trauma, confrontation of the events that caused the trauma, reconnection to the world around her, and achievement of a sense of commonality with others.¹⁵¹ Her suggestions for treatment include establishing a safe relationship with a therapist, reliving the trauma through storytelling, and group therapy.¹⁵²

Some welfare-to-work programs have started to incorporate these recovery principles into their curricula by providing domestic violence support groups, encouraging participants to write their autobiographies or life stories and daily journal writing.¹⁵³ Many other service providers,

knows the abused woman's place of employment, she will be asked to leave in order to stay at the shelter); Telephone Interview with Gwen Telfare, Phoenix House (Mar. 7, 1996) (women in the shelter are required to change jobs or take a leave of absence for security reasons).

¹⁵⁰ See STEVEN E. SORG ET AL., UNIVERSITY OF CENTRAL FLA. CTR. FOR EDUC. RESEARCH AND DEV., DOMESTIC ABUSE SHELTER EDUCATIONAL NEEDS ASSESSMENT 9 (1994) (on file with the *Harvard Women's Law Journal*). Shelters often lack the financial resources to provide needed vocational and employment services to women. One survey of 47 shelter programs in California found 17% with on-site educational courses and 21% with vocational training. In Florida, a similar survey of 22 shelters found that 63.6% offered education on-site, 22.7% offered job training, and 36.4% assisted with job placement. See *id.*

¹⁵¹ See HERMAN, *supra* note 90, at 217-36.

¹⁵² See *id.* at 132-51.

¹⁵³ For example, the Jobs for Youth program in Chicago actively encourages its

however, need a basic grounding in post-traumatic stress disorder and trauma recovery in order to incorporate activities within their programs that can help women recover from the effects of abuse. A dialogue with post-traumatic stress disorder experts could help program providers and policymakers envision the types of services necessary.

These programs also need to be more attentive to issues of alcohol abuse and drug use among domestic violence victims. Many traumatized people who cannot dissociate from the trauma may attempt to numb the pain by using alcohol or narcotics, causing more problems by inducing drug dependence and by preventing healing because the trauma is not squarely confronted.¹⁵⁴ Drug dependency can prevent program participants from succeeding in welfare-to-work programs or on the job. Those programs that identify substance abuse problems sometimes fail to assess domestic violence, often the underlying cause of the drug use.

In addition, vocational rehabilitation experts can broaden the employment services discussion by providing visions for new work-related services for domestic violence victims on welfare. For example, "work hardening," a technique known in the vocational rehabilitation world, may become a crucial ingredient. "Work hardening" describes the process of being in a safe environment outside the home in order to build tolerances and strength over a period of time that gradually increases tolerance for work.¹⁵⁵ Activities under a "work hardening" program can range from tasks usually associated with volunteer work, such as stuffing envelopes for mailing, to those tasks that require interaction with staff and the public.¹⁵⁶

A final factor to consider in designing job-training programs is the link between domestic violence and poor reading ability. Many violence victims face difficulties with reading because the reading process requires that the thoughts of the writer enter the awareness of the reader.¹⁵⁷ As a result of abuse, some victims are overwhelmed by obsessive thoughts about the abuse experience, or avoid thinking at all, and find it difficult to comprehend information through the reading process.¹⁵⁸ Assisting

participants to write their life histories to share their experiences. This includes daily journals and autobiographies. Telephone Interview with Jack Connelly, Executive Director, Jobs for Youth (Mar. 7, 1996). The Chicago Commons ETC program recommends that its participants keep a daily journal as a form of relief to discuss their experiences. Participants are also invited to complete a life-mapping exercise that highlights turning points from birth to the first time of sexual intercourse to marriage to the birth of a child up to the present time. Telephone Interview with Denise Innis, Chicago Commons Employment Training Center (Mar. 7, 1996).

¹⁵⁴ See HERMAN, *supra* note 90, at 44.

¹⁵⁵ See MURPHY, *supra* note 94, at 225.

¹⁵⁶ See *id.*

¹⁵⁷ See *id.* at 236.

¹⁵⁸ See *id.*

domestic violence victims with their reading ability may require new techniques to be pioneered.

3. Other Community Services

Community-based initiatives aimed at keeping girls in school, preventing teen pregnancies, and providing them with a vision of autonomy and empowerment are additional key methods of preventing welfare dependency and domestic violence. Because many low-income girls' mothers themselves have been dependent upon others or on welfare, they have been unable to perform this role within the family.¹⁵⁹ Programs that provide parenting training to young mothers so that they can be strong role models for their daughters are a step towards eliminating intergenerational welfare dependency.

Finally, the existence of domestic violence means that ending poverty for girls and women cannot be achieved without providing assistance to the low-income men in their lives. Federal welfare policy has virtually ignored the men in poor women's lives, and traditionally the battered women's service movement has not focused on services for men.¹⁶⁰ Inability to support their families naturally causes pressure and tension for men, that is exacerbated when economic opportunities are provided to their partner through the AFDC program instead of to them.¹⁶¹ Policymakers must adequately fund and aggressively market counseling, literacy, job training, and job placement opportunities to low-income men as well as women. Such programs may represent a more promising approach than men's anger groups that have been funded in some localities.¹⁶² Because so many low-income women live their lives connected with men, single-sex policies and initiatives will remain inadequate to the task of eliminating poverty.

¹⁵⁹ See Greg J. Duncan, *Welfare Dynamics and Welfare Reform 9-10* (1995) (unpublished manuscript, on file with the *Harvard Women's Law Journal*). One major study reveals that 20% of daughters from welfare homes went on welfare themselves. See *id.*

¹⁶⁰ See DOBASH & DOBASH, *supra* note 144, at 43.

¹⁶¹ See RICHARD J. GELLES & CLAIRE PEDRICK CORNELL, *INTIMATE VIOLENCE IN FAMILIES 75* (1985) (finding that unemployed men assault their wives at almost twice the rate for employed men. "Being unemployed is devastating to men in our society . . . Men who are employed part-time have even higher rates [of wife abuse], probably because they have the worst of all possible worlds—no full-time job and ineligible for unemployment or other benefits."); see also DeParle, *supra* note 123.

¹⁶² See Mary Ann Dutton & Catherine L. Waltz, *Domestic Violence: Understanding Why It Happens and How to Recognize It*, 17 *FAM. ADVOC.* 14, 18 (1995). Research shows that there is a 40% recidivism rate—defined as a violation of a protection order, conviction for domestic violence assault, or police report on suspicion of domestic violence—among batterers who complete a group intervention program. See *id.* This figure does not include abusive men who dropped out of the intervention programs studied. See *id.*; see also Gondolf, *supra* note 147, at 321 (recognizing that "[batterer] treatment must go beyond anger control and the restraint of oppression").

As a necessary first step, however, domestic violence experts and battered women's service groups must come together with state welfare departments and welfare-to-work providers to craft new policies and design new services. The expertise of battered women's service groups must inform the welfare reform debate to ensure that welfare policies promoting economic self-sufficiency do not exacerbate domestic violence and greater dependence upon abusive men. There is still time to envision, develop, and advocate policies that better encourage true independence and economic self-sufficiency of low-income girls and women on welfare.