

“Please Stop Telling Her to Leave.”
Where is the Money: Reclaiming Economic Power to
Address Domestic Violence

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INTRODUCTION

In this Article, I argue that economic dependence is a critical factor in violence prevention. For many victims¹ of domestic violence, the

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1. For consistency, I refer to persons subjected to domestic violence as “victims.” There are other terms I could have used, including “survivor,” “battered woman,” among others. I am not convinced that any term is completely adequate. I also refer to victims of domestic violence as “she” with a full understanding that men and individuals who do not ascribe to a gender can all be victims and suffer harm within the context of an intimate relationship.

economic entanglement with an abusive partner is too strong to sever contact without another source of economic support. This Article is a thought experiment in economic justice; it asks the question: is there a way to provide outside economic support for a victim of violence fleeing a battering partner? In this Article, I examine existing systems such as Social Security, unemployment assistance, work-readiness programs, crowd sourcing, and others to evaluate how these sources could provide emergency economic support for victims. I discuss the feasibility of using these systems to provide such support. From there, I provide a safety and security analysis with an eye towards economic freedom.

A victim of domestic violence² who shares a home with her battering partner, or no longer is safe in her own home, may want to flee. But flee to where? There is limited domestic violence shelter space across the country. And that which does exist is often outside a victim's community, necessitating her to leave family, her children's school, work, or place of worship, among others. In addition, because shelter space is extremely limited, those fleeing with urgency and no plan have a near-zero likelihood of finding space in a domestic violence shelter on a given day.³ In some states, there is homeless shelter space available for families with children. This may be an option for some. However, a fleeing victim has no choice as to location or type of living space that a homeless shelter may provide. Further, homeless shelters are often less secure than domestic violence shelters. In addition, many homeless shelters only house parents and their children. For a childless victim or a victim leaving her children behind, there are few options and virtually none that are secure, confidential, and available immediately.

Housing aside, how is a victim (and frequently a victim and her children) to survive without her batterer's financial support? When a victim decides she wants to leave a relationship, she may have been financially dependent on her batterer for some time. Frequently, this economic dependence is a part of the abuse, acting as another way for a batterer to exert complete power and control in the relationship.⁴

This piece will explore potential options. These options are suggested with thoughtfulness and a cursory exploration of the potential downsides. They are suggested to instigate a conversation about economic justice and isolation. And they try to answer a question: would more

2. The term "domestic violence" is also problematic as abuse can take many different forms, including emotional, financial, and sexual.

3. *Domestic Violence, Housing, and Homelessness*, NAT'L NETWORK TO END DOMESTIC VIOLENCE, http://nnedv.org/downloads/Policy/NNEDV_DVHousing_factsheet.pdf (last visited May 24, 2016).

4. See Dana Harrington Conner, *Financial Freedom: Women, Money, and Domestic Abuse*, 20 WM. & MARY J. WOMEN & L. 339, 356 (2014).

victims leave if they had the money? And what does that money mean? How much is enough? Is enough ever enough?

I. PRIORITIZING SAFETY

Much has changed in domestic violence rhetoric. Best practice now tells us that prioritizing a victim's safety comes in many different forms. As our understanding of the dynamics of domestic abuse has developed, service providers know that obtaining a civil protection order⁵ against one's abuser, for example, may not necessarily be in a client's safety interest.⁶ People who work with victims of domestic violence know that it is unrealistic to expect all individuals who have physically, sexually, and/or psychologically abused their intimate partners—as is often a required finding to obtain a protection order in the first place—will simply "cease and desist" and abide by a court order.⁷

Less understood but well documented is the risk of actually leaving a battering partner. There is grave danger in leaving a battering relationship,⁸ victims who leave their batterers are often at heightened risk of harm. This notion has been termed "separation assault."⁹

Those who work with victims of domestic violence are taught to empower clients because they know their abusers best. They are the ones, after all, who have been able to keep themselves alive to the point when we meet them. They know their batterers' signs and triggers. They know whether a restraining order will make them safer or put them in greater danger. They also have the best idea as to whether leaving a battering relationship will bring them safety.

But, let's take it a step further: assume that a person wants to leave a battering partner with or without the assistance of court, police, or a restraining order. What does that look like? How is it possible? How does that happen if the victim has no economic resources?

II. ECONOMIC DEPENDENCE AS A FORM OF DOMESTIC VIOLENCE.

Victims of domestic violence are frequently financially dependent on their abusers and lack a community support system. Isolation from family, friends and a work community is common in battering relation-

5. Civil protection orders are also known as "restraining orders," "orders of protection," or "protective orders."

6. Jane Aiken & Katherine Goldwasser, *The Perils of Empowerment*, 20 CORNELL J.L. & PUB. POL'Y 139, 140 (2010).

7. *Id.* at 162.

8. *Id.*

9. See Martha R. Mahoney, *Legal Images of Battered Women: Redefining the Issue of Separation*, 90 MICH. L. REV. 1, 6 (1991) (coining the term "separation assault" to identify assaults that block women from leaving).

ships. Most victims do not leave violent relationships because they are unable to gather the resources to do so. How does a victim who no longer wants to live with abuse separate from her source of income?

Lack of shelter and affordable, accessible housing is one of the reasons many victims stay in an abusive relationship or return to their batterers after initially leaving.¹⁰ There is not enough emergency domestic violence shelter space in the United States to meet the demand.¹¹ In a 24-hour period on November 2, 2006, for example, there were more than 5,000 unmet requests for shelter beds in the United States.¹² Almost ten years later, in another survey administered on September 16, 2015, that need had increased to 7,728 unmet requests for shelter space.¹³

Most victims cannot safely stay with, or rely upon, family members or friends for temporary shelter. For many, staying with friends and family puts everyone in danger. Many abusers know the location of family and friends' homes. Further, many victims have lost family support as a result of the ongoing isolation they endured during the relationship.

Frequently, batterers do not let their victims work or socialize. Many victims have spotty work histories because batterers have interfered with their schedules, causing them to miss days and often ultimately leading to termination. This is often used as a means of exerting power and control. Many victims also have poor credit histories either because their batterers have used victims' credits for their own benefit or because they have been unable to pay their bills on time due to their spotty income streams.¹⁴ Lack of credit presents an immediate obstacle to leaving. Without credit, a victim is unable to pay for basic necessities and other incidental costs such as plane tickets, rental cars, hotel charges and the like.

These factors leave a victim in an economically tenuous position. If she wants to leave, has no credit, no income, and no support, what is she to do? If there are no beds available and a victim does not have the fami-

10. Sarah M. Buel, *Effective Assistance of Counsel for Battered Women Defendants: A Normative Construct*, 26 HARV. WOMEN'S L.J. 217, 243 (2003).

11. NAT'L NETWORK TO END DOMESTIC VIOLENCE, DOMESTIC VIOLENCE COUNTS 2012: A 24-HOUR CENSUS OF DOMESTIC VIOLENCE SHELTERS AND SERVICES 6 (2012), available at http://nnedv.org/downloads/Census/DVCounts2012/DVCounts12_NatlReport_Color.pdf (“[I]n most places the demand for emergency shelter is outpacing the availability. Across the country, advocates reported over and over that they were not able to house victims seeking shelter because of a lack of shelter beds.”).

12. Radha Iyengar & Lindsay Sabik, *The Dangerous Shortage of Domestic Violence Services*, 28 HEALTH AFF. 1052, 1057 (2009).

13. NAT'L NETWORK TO END DOMESTIC VIOLENCE, DOMESTIC VIOLENCE COUNTS 2015: A 24-HOUR CENSUS OF DOMESTIC VIOLENCE SHELTERS AND SERVICES 1 (2015), available at http://nnedv.org/downloads/Census/DVCounts2015/DVCounts15_NatlReport.compressed.pdf.

14. Conner, *supra* note 4, at 365–66.

ly or community support to temporarily stay elsewhere, where can she go? How can she afford to leave?

III. EMERGENCY GOVERNMENT CASH RELIEF—UNAVAILABLE AND INSUFFICIENT?

How does a victim of violence who wants to flee her abuser obtain enough money to support herself? Is there an amount that would be sufficient to cover costs while she moves, resettles, and establishes herself? What is the right amount?

One possible source of income for a fleeing victim could be the federal Temporary Assistance for Needy Families (TANF) program. Congress created TANF when it passed the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.¹⁵ TANF replaced Aid to Families with Dependent Children (AFDC), which provided cash welfare to poor families with children since 1935.¹⁶ Through TANF, the federal government provides a block grant each state. Each state uses the block grant funds to operate their own programs. In order to receive federal funds, states must also spend some of their own state dollars on programs for families in need.¹⁷

TANF cash benefit programs are implemented and disseminated differently in each state but their goals remain consistent—to provide cash assistance to families with children and, in most states, women in their last 120 days of pregnancy with little or no assets or income.¹⁸ The amount TANF provides to custodial parents or pregnant mothers is minimal. However, for women with children (or those who are pregnant) fleeing a batterer, TANF may be an option for emergency cash relief.

The disbursement of funds is not immediate. To apply, an individual often needs to provide various forms of documentation: proof of identity, Social Security numbers for certain household members applying, birth certificates for all household members applying (needed to prove citizenship and relationship for those included on the application), proof of pregnancy and due date from a competent medical authority (if applying due to pregnancy), proof of all household earnings for the last four weeks, and proof of all shelter costs (rent receipts, mortgage statements, utility bills, lease paperwork).¹⁹ Other forms of verification may also be

15. 42 U.S.C. § 601 (2012).

16. *Policy Basics: An Introduction to TANF*, CTR. ON BUDGET & POL’Y PRIORITIES, <http://www.cbpp.org/research/policy-basics-an-introduction-to-tanf> (last updated June 15, 2015).

17. *Id.*

18. 45 C.F.R. § 263.2(b)(2) (2016).

19. See GENE FALK, CONG. RESEARCH SERV., R43634, TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF): ELIGIBILITY AND BENEFIT AMOUNTS IN STATE TANF CASH ASSISTANCE PROGRAMS (2014), available at <https://www.fas.org/sgp/crs/misc/R43634.pdf>.

necessary at the discretion of an applicant's case manager. Once an application has been started, verifications must be provided by a time certain. If all required verifications are submitted on time, TANF eligibility is typically decided within 30 days of the application date.²⁰

This form of final relief poses five main problems: (1) verification of eligibility may be impossible for someone leaving a battering relationship, (2) applicants may be immediately disqualified if leaving a marriage where there was property and assets held jointly, even if victim had no access to them, (3) the amount of financial relief is minimal, (4) the 30-day window is not instantaneous, and (5) many victims of domestic violence do not have children or a qualifying pregnancy, thus disqualifying them from even applying.

Abusers may destroy or hold hostage the required documentation, making it virtually impossible for a victim to prove eligibility. An applicant may have no access to her identity documentation or access to bank accounts held under her name. Further, to be eligible for TANF, an applicant must prove that she has almost no resources.²¹ Though a victim may have never had access to assets held jointly in a marriage, proving that may be challenging and could potentially result in immediate disqualification for federal benefits.

Although TANF is a federal safety net, the amount of assistance it provides is minimal:

As of July 1, 2015, every state's TANF benefits for a family of three with no other cash income were below 50 percent of the poverty line, measured by the Department of Health and Human Services' (HHS) 2015 poverty guidelines. Most states' benefits were below 30 percent of the poverty line. Benefits for a family of three with no other cash income were also below the Fair Market Rent (the Department of Housing and Urban Development's estimate of the rent and utility costs of modest housing in a local area) for a two-bedroom apartment in every state; in 29 states and D.C., they covered less than half of the Fair Market Rent. Even when benefits from SNAP (formerly food stamps) are added to TANF family grants, families with no other income remain below the poverty line in every state.²²

20. MASS. DEP'T OF TRANSITIONAL ASSISTANCE, HOW MAY WE HELP YOU? BROCHURE (2011), available at http://www.masslegalservices.org/system/files/library/CI-DTA_Brochure_English_color.pdf.

21. See CONG. RESEARCH SERV., R43634, *supra* note 20, at 3.

22. Ife Floyd & Liz Schott, *TANF Cash Benefits Have Fallen by More Than 20 Percent in Most States and Continue to Erode*, CTR. ON BUDGET & POL'Y PRIORITIES (Oct. 15, 2015), <http://www.cbpp.org/research/family-income-support/tanf-cash-benefits-have-fallen-by-more-than-20-percent-in-most-states>.

In addition, because each state sets a specific income level required of applicants to be eligible for TANF benefits, many states have eligibility requirements that are too low to reach many people in need of support. The allocation of maximum benefits varies greatly between states. Additionally, a victim of domestic violence who does not have a qualifying pregnancy or children in her custody is automatically disqualified for this benefit. In sum, TANF is insufficient in the amount of support provided, speed with which benefits are approved and administered, and coverage of victims seeking safety.

Despite this, special protections for domestic violence victims applying for TANF do exist. Almost all states have some form of a domestic violence waiver.²³ Applicants may request waivers of certain TANF requirements for good cause due to domestic violence, such as (1) the work program requirement, (2) the 24-month time limit, (3) the family cap, and (4) teen parent school attendance requirements.²⁴

Some states also provide emergency financial assistance for domestic violence victims.²⁵ Oregon, for example, has one such program:

The Temporary Assistance for Domestic Violence Survivors (TA-DVS) program . . . is a TANF-funded program intended to provide temporary financial assistance and support to families affected by domestic violence during crisis or emergent situations when other resources are not available. TA-DVS is used to help the domestic violence survivor and the children address their safety concerns and to stabilize their living situation, thus reducing the likelihood of the survivor returning to the abuser. The most common need for TA-DVS is when the domestic violence survivor flees the abuser.²⁶

Similar to other forms of TANF, TA-DVS is only available to “families,” thus disqualifying single people or parents forced to flee without their children.

Some states also provide emergency assistance to individuals and families who qualify as disabled on an emergency basis.²⁷ Eligibility dif-

23. 45 C.F.R. § 286.140 (2015).

24. See, e.g., 106 MASS. CODE REGS. 203.110(B)(4) (2016); see also DEP’T OF TRANSITIONAL ASSISTANCE, EXEC. OFFICE OF HEALTH AND HUMAN SERVS., COMMONWEALTH OF MASS., MASSACHUSETTS STATE PLAN FOR TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) 18 (Oct. 1, 2013), available at <http://www.mass.gov/eohhs/docs/dta/welfare-reform/state-plan-2013.pdf>.

25. See 106 MASS. CODE REGS. 203.110(B)(4) (2016).

26. *Temporary Assistance for Domestic Violence Survivors Program*, OR. DEP’T OF HUMAN SERVICES (Oct. 1, 2013), <http://apps.state.or.us/ca/fsm/05dv-a.htm>.

27. See, e.g., *Emergency Aid to the Elderly, Disabled, and Children (EAEDC)*, MASS. EXEC. OFFICE OF HEALTH & HUMAN SERVICES, <http://www.mass.gov/eohhs/consumer/basic-needs/financial/emergency-aid-to-the-elderly-disabled-and-children.html> (last visited April 11, 2016); *General Assistance*, MINN. DEP’T OF HUMAN SERVICES, <http://mn.gov/dhs/people-we-serve/adults/>

fers from state to state. In Massachusetts, for example, The Emergency Aid to the Elderly, Disabled, and Children program (EAEDC) is a cash benefit for disabled adults, caretakers, and some children. This benefit may help some individuals who are unable to get TANF (TAFDC in Massachusetts).²⁸ EAEDC is a state benefit. Unlike the family eligibility requirements for TANF, EAEDC covers individuals.²⁹ However, in order to qualify, an applicant must have at least one physical or mental health problem that lasts at least sixty days and have trouble supporting herself through work.³⁰ As currently constructed, being a victim of domestic violence alone without a concurrent significant physical or mental disability is not sufficient to meet the sixty-day disabled criteria. One could argue that being subjected to ongoing abuse is sufficient to meet the standard, but case law does not yet support that position. However, many victims of domestic violence do in fact have concurrent serious physical and mental health disabilities either directly related to the abuse they suffered or as a previous medical condition that prohibits work. For these reasons, EAEDC may be an option for some victims of domestic violence.

Verification of eligibility for EAEDC may be impossible for someone leaving a battering relationship, much as it is for those seeking TANF benefits. An applicant may struggle to prove sixty days of disability prior to application. Applicants may also be immediately disqualified if leaving a marriage where there was property held jointly, even if the victim lacked access to the property. Further, the sixty-day criteria threshold eligibility requirement poses a serious safety risk; many may decide to stay in a violent relationship to meet the sixty-day eligibility criteria.

Eligibility issues aside, the amount and speed of financial relief may also be insufficient. For a single person with shelter costs approved, the monthly payment can be as low \$303.00, and the thirty-day window for approval does not provide emergency financial relief.³¹ Accordingly, while TANF and related state programs may seem to be viable options for victims seeking relief, they are often inadequate.

IV. UNEMPLOYMENT INSURANCE—MAY NOT BE SUFFICIENT

Unemployment insurance can be another form of social safety net for victims of domestic violence. Unemployment insurance is cash bene-

economic-assistance/income/programs-and-services/ga.jsp (last updated Jan. 30, 2015).

28. *Emergency Aid to the Elderly, Disabled, and Children (EAEDC)*, *supra* note 27.

29. *Id.*

30. *Id.*

31. DAN BLOOM ET AL., MANPOWER DEMONSTRATION RESEARCH CORP., WELFARE TIME LIMITS: STATE POLICIES, IMPLEMENTATION, AND EFFECTS ON FAMILIES, *available at* http://mdrc.org/sites/default/files/full_607.pdf (last visited Mar. 30, 2016).

fits that partially cover one’s existing salary while one tries to procure new employment. “In most states, individuals are ineligible for unemployment benefits if they leave work voluntarily without ‘good cause’ or if they are discharged for ‘misconduct.’”³² A victim of domestic violence engaged in salaried work that must stop working or relocate due to the abuse may be eligible for unemployment insurance even if she quit work and was not laid off under traditional definitions of good cause.³³ More than half of the states in the United States have laws with specific provisions of unemployment insurance to victims of domestic violence, sexual assault, and stalking.³⁴ The applicant must provide documentation or certification of the violence.

As of July 2014, thirty-five jurisdictions (thirty-three states and the District of Columbia and the Virgin Islands) passed laws that explicitly provided unemployment insurance to victims of domestic violence.³⁵ Each of the 35 jurisdictions has different requirements for satisfying the commissioner of unemployment insurance with certification of the domestic violence.³⁶ If satisfied, this form of insurance can provide cash benefits for victims who need to flee a work place or geographic area, or who were discharged due to the disruption domestic violence caused on the job.

Mississippi, Nevada, Pennsylvania, Puerto Rico, Iowa, and Utah have policies, interpretation, or regulations explicitly stating that leaving employment because of domestic violence-related considerations may constitute “good cause,” and qualify an individual to receive unemployment insurance.³⁷ This form of relief may be helpful and appropriate to some victims and provide a bridge of financial support if an individual is

32. *Unemployment Insurance Benefits for Victims of Domestic Violence & Sexual Violence*, LEGAL MOMENTUM, <https://www.legalmomentum.org/sites/default/files/reports/State%20Law%20Guide-Unemp%20Ins%20for%20Victims%20of%20DV%20%26%20SA-7-14.pdf> (last updated July 2014).

33. “Good cause exists when an employer’s decision to [discharge/demote] an employee is made in good faith and based on a fair and honest reason. Good cause does not exist if the employer’s reasons for the [discharge/demotion] are trivial, arbitrary, inconsistent with usual practices, [or] unrelated to business needs or goals [or if the stated reasons conceal the employer’s true reasons]. In deciding whether the defendant had good cause to [discharge/demote] the plaintiff, you must balance the defendant’s interest in operating the business efficiently and profitably against the interest of the plaintiff in maintaining employment. If the plaintiff had a sensitive managerial position, then the defendant had substantial, though not unlimited, discretion in [discharging/demoting] [him/her].” *Breach of Employment Contract—Unspecified Term—“Good Cause” Defined*, Judicial Council of California Civil Jury Instructions (CACI) 2404 (2016).

34. LEGAL MOMENTUM, TIPS FOR DOMESTIC VIOLENCE VICTIMS SEEKING UNEMPLOYMENT BENEFITS 1 (2006), <https://www.legalmomentum.org/sites/default/files/reports/uitipsletterhead.pdf>.

35. *Id.*

36. *See, e.g.*, MASS. GEN. LAWS ch. 151A, § 25(e) (2016).

37. *Comparison of State Unemployment Laws*, U.S. DEP’T OF LABOR (Mar. 29, 2004), <http://www.unemploymentinsurance.doleta.gov/unemploy/comparison2013.asp>.

forced to leave employment due to domestic violence. However, similar to TANF and emergency disability benefits like EAEDC, there is a lag between application and approval. For victims needing immediate relief, that time lag may be too much.

V. SUGGESTIONS FOR REFORM

What if there was a way to create an economic safety net for victims? What if this economic safety net could be issued on an emergency basis? What then? Would more people leave a dangerous or unhealthy relationship? How do we as a society create a social safety net where one does not currently exist?

The following subparts seek to answer some of these questions. I evaluate existing forms of monetary and supplemental support such as social security, crowd sourcing, purveyors of credit, and others to evaluate how these systems could provide emergency economic support for victims.

A. Cash Advance on Social Security

Assuming a victim has paid into the Social Security System for a period of time, could there be a mechanism by which a victim could access money she paid into the system prior to retirement? If so, a victim could ostensibly borrow on her retirement or withdraw early.

As the statute is currently constructed, “Social Security Benefits are the monetary benefits received by retired workers who have paid in to the Social Security system during their working years.”³⁸ These cash benefits are paid on a monthly basis to retired workers or their surviving spouses.³⁹ In the United States, full retirement age is sixty seven.⁴⁰ The earliest a person can receive benefits from their Social Security is sixty two (benefits at this age are 70 percent of the monthly benefit).⁴¹

The ability to access some, all or an amount certain of an individual’s Social Security could be a solution sufficient to cover costs while a victim moves, resettles, and establishes herself. It is also technically the victim’s own money as she herself has paid into the Social Security system though periods of employment. There are many drawbacks to this proposal not withstanding the economic implications to the federal budget. This Article does not seek to answer those larger questions, only to

38. *Social Security Benefits*, INVESTOPEDIA, <http://www.investopedia.com/terms/s/social-security-benefits.asp> (last visited Apr. 11, 2016).

39. *Id.*

40. *Retirement Planner: Benefits by Year of Birth*, SOC. SEC. ADMIN., <https://www.ssa.gov/planners/retire/agereduction.html> (last visited Apr. 11, 2016).

41. *Id.*

ask the question: “Is this possible?” If there were a mechanism by which a victim could access some or all of her Social Security benefits as emergency financial relief, would she decide to leave a violent relationship if she did not have other sources of income, relief or support? A plausible hypothesis is yes.

B. Microloans

Microloans are small loans, typically \$35,000 or less, that can be used for many purposes.⁴² Access to microloans and microcredit has gained in popularity abroad and in the United States. For example, “[t]he Microloan Program assists women, low income individuals, minority entrepreneurs, and other small businesses which need small amounts of financial assistance. Under this program, [the Small Business Administration] makes direct and guaranteed loans to Intermediaries . . . who use the proceeds to make loans to eligible borrowers.”⁴³ Typically they are used to start a business or procure necessary equipment, inventory or working capital. Most microloans are disseminated via community based not-for-profit organizations to help low or moderate income individuals. According to a study done by Accion, one of the largest microfinance institutions in the United States, there are approximately 13.1 million micro-entrepreneurs in the United States.⁴⁴ This number includes 2.4 million African-Americans and Latinos, many of whom have never received a business loan and do not meet traditional loan qualifications.⁴⁵ Terms and interest rates can vary but, in general, microloans have shorter payment terms, competitive interest rates, and are accessible to borrowers who have little to no collateral or poor credit.⁴⁶

The extension of microcredit has been widely heralded as a successful means to fight and alleviate global poverty and to empower poor women. Microcredit is not charity or a form of welfare, but rather a structured lending program that provides those traditionally excluded from access to credit with the opportunity to build meaningful economic enterprises and thus improve their standard of living. Microcredit is commonly defined as the extension of small, short-term

42. *Microloans 101: What They Are and How to Get One for Your Small Business*, NAT'L FED'N OF INDEP. BUS. (Dec. 11, 2009), <http://www.nfib.com/content/business-resources/money/microloans-101-what-they-are-and-how-to-get-one-for-your-small-business-50300/>.

43. 13 C.F.R. § 120.700 (2016).

44. See *Innovative New Strategies for Accessing Capital*, NAT'L WOMEN'S BUS. COUNCIL, <https://www.nwbc.gov/content/innovative-new-strategies-accessing-capital> (last visited April 11, 2016).

45. *Id.*

46. *Id.*

loans to the very poor, who lack the traditional physical collateral required by large institutional commercial lenders.⁴⁷

It has been argued that more access to microcredit must be provided to women-headed households who have been affected by war or conflict.⁴⁸ Though coming from an international perspective, parallels can easily be made to women who need fast access to money to escape the conflict of their domestic violence situations. International practices of microlending have been used in the United States since the 2008-2011 financial crisis.⁴⁹ The model of microlending and microcredit is not necessarily conducive to emergency flight situations. It does, however, demonstrate a concept of lending to those with little or no cash or credit. The goal of both small business development and emergency access for victims is similar: to provide a path towards economic independence for those with poor, little, or no credit.

Though recent access to microloans and microcredit provides hope and a working model of access to cash recourses, it should be approached and analyzed with caution.

The Small Business Administration (SBA) Microloan Program,⁵⁰ the single largest source of funding for microfinance institutions in the United States, provides direct funding to qualified community finance organizations, who then issue the loans to borrowers. Currently, the SBA loan limit is \$50,000⁵¹ with an average loan of about \$13,000.00.⁵² SBA microloans can be used for several types of business financing, but cannot be used to cover debt or purchase real estate.⁵³ Small business owners who are interested in applying for an SBA microloan must apply through an SBA-approved, participating microlender.⁵⁴

Accion USA is another leader in the U.S. microfinance industry.⁵⁵ The community organization offers several types of small business loans from \$500 to \$50,000, including group loans in which three to five bor-

47. Lisa Avery, *Microcredit Extension in the Wake of Conflict: Rebuilding the Lives and Livelihoods of Women and Children Affected by War*, 12 GEO. J. ON POVERTY L. & POL'Y 205, 207 (2005).

48. *Id.*

49. Shaila Dewan, *Microcredit for Americans*, N.Y. TIMES, Oct. 29, 2013, at B1, available at http://www.nytimes.com/2013/10/29/business/microcredit-for-americans.html?_r=0.

50. *Microloan Program*, U.S. SMALL BUS. ASS'N, <https://www.sba.gov/content/microloan-program> (last visited April 11, 2016).

51. 13 C.F.R. § 120.702 (2016).

52. *Microloan Program*, U.S. SMALL BUS. ASS'N, <https://www.sba.gov/loans-grants/see-what-sba-offers/sba-loan-programs/microloan-program> (last visited June 7, 2016).

53. *SBA Loan Program*, U.S. SMALL BUS. ASS'N, <https://www.sba.gov/loanprograms> (last visited Apr. 11, 2016).

54. 13 C.F.R. § 120.712 (2016).

55. See ACCION, <http://us.accion.org> (last visited Apr. 11, 2016).

rowers apply together and agree to guarantee each other's portions of the loan.⁵⁶ Accion specializes in working with small business owners who do not qualify for traditional loans, and offers business finance consulting in addition to loans. Other microfinance leaders include Kiva,⁵⁷ a peer-to-peer lending web portal, and the Communities at Work Fund,⁵⁸ a program that provides funds to Community Development Financial Institutions (CDFIs).

This model could be used with victims. Microloan organizations such as Kiva have an extremely high rate of payback.⁵⁹ Many victims find themselves in situations where they do not qualify for traditional forms of credit and loans. Modeled after traditional micro-lending organizations, this money could be lent on an emergency basis and be paid back over time when the victim finds herself in a safer, more stable environment.

The microloan model has been used for individuals in distress before. Cambridge Community Services and Counseling Center, a small not-for-profit in Massachusetts, issues microloans to asylum applicants.⁶⁰ The amount given is quite small but issued on a recurring monthly basis (\$50/month) and repayment is "encouraged."⁶¹ Though the amount would not suffice for a victim fleeing violence and needing to reestablish herself, this model could be applied to domestic violence victims.

The model has in fact been implanted on a small scale with victims of domestic violence. The Kentucky Coalition against Domestic Violence offers interest free microloans to some clients.⁶² The loan amount is approximately \$500 and individuals must meet with the organizations advocates at least three times before the money is disseminated. Even though clients are only required to pay the principal amount of the loan back over time (no interest), there is expectation of payback. The organization will not send nonpaying clients to creditor agencies for nonpayment, but are required to report nonpayment to the government.⁶³ Thus,

56. See 13 C.F.R. § 120.700 (2016); *Id.* § 120.701, at ¶ 25-570 to ¶ 25-570A; *Id.* § 120.705, at ¶ 25-570E.

57. See KIVA, <https://www.kiva.org> (last visited April 11, 2016).

58. See COMMUNITIES AT WORK FUND, <http://www.communitiesatworkfund.com> (last visited Apr. 11, 2016).

59. See KIVA, *supra* note 57.

60. *The Advance Microlending Project*, COMMUNITY LEGAL SERVICES & COUNS. CENTER ADVANCE MICROLENDING PROGRAM, <http://www.clsacc.org/PDF/AdvanceProject.pdf> (last visited Mar. 30, 2016).

61. *Id.*

62. *KCADV Unsecured Microloan*, KY. COALITION AGAINST DOMESTIC VIOLENCE, <http://kcadv.org/projects/economic-justice-project/micro-loans-2/kdva-unsecured-microloan/> (last visited Mar. 22, 2016).

63. *Id.*

nonpayment does negatively affect any good credit these victims may have. Further, the organizational requirement of meeting with an agency advocate at least three times before the money is disseminated may be too cumbersome and time intensive for victims fleeing violence. If the need is immediate, the meetings and time necessitated to complete internal agency intakes and applications may defeat the purpose of even applying. Though significant, \$500 is not sufficient in any part of the country to allow an individual to flee and procure new, safe housing in an emergency. The microloan model, however, provides a framework for effective lending, particularly for individuals with little, no or bad credit.

C. Crowdfunding

Crowdfunding is defined as the process of obtaining needed services, ideas, or content by soliciting contributions from a large group of people, and especially from an online community, rather than from traditional employees or suppliers.⁶⁴ The crowdfunding model has gained popularity since 2006.⁶⁵ Crowdfunding can be implemented to raise funds for almost anything. The focus since its inception in the early 2000s is to provide a platform so that the online community can engage and donate in small sums. Money is raised by submitting pitches to an online platform; these platforms and companies that operate the websites do some vetting for fraud and then publish them live on their site for a time constrained period of time. Crowdfunding is growing worldwide and many see it as having the potential to revolutionize how many seek financing and engage with online communities.⁶⁶

Crowdfunding platforms are used to raise funds for various things including, but not limited to, new businesses, artists or endeavors, fundraising for a cause, assistance with medical expenses, support to families and individuals experiencing challenges due to trauma, natural disasters and death, and even raising money for an event such as a wedding or funeral.

Many crowdfunding sites already exist for both individuals affected by domestic violence. One such platform earned over \$11,000, had over 1,000 shares on social media, as well as comments referring to other

64. *Definition of Crowdfunding*, MERRIAM-WEBSTER, <http://www.merriam-webster.com/dictionary/crowdfunding> (last visited Mar. 22, 2016).

65. *Id.*

66. *See e.g.*, INFORMATION FOR DEVELOPMENT PROGRAM, CROWDFUNDING'S POTENTIAL FOR THE DEVELOPING WORLD 5 (Conference Version 2013), available at http://www.infodev.org/infodev-files/wb_crowdfundingreport-v12.pdf; *see also* Ajay K. Agrawal, Christian Catalini & Avi Goldfarb, *The Geography of Crowdfunding* 4 (Nat'l Bureau of Econ. Research, Working Paper No. 16820, 2011), available at <http://www.nber.org/papers/w16820.pdf>.

pages for people in domestic violence situations (these are all run by individuals or friends on behalf of individuals).⁶⁷

This model potentially provides a mechanism for individuals to raise and access money almost instantaneously in an effort to flee a violent situation. There are, of course, clear drawbacks, most obviously related to safety and confidentiality. For crowdfunding efforts to be successful, someone must share a story. Though one could change his/her name or share a story on behalf of a friend or loved one, to reach an online audience and encourage people to donate, details of one's personal story must emerge. To be most effective, many of the crowdfunding platforms actively encourage photo documentation to increase visibility vis-à-vis social media and to give the online audience an image. For someone in danger, this could put them at even greater risk.

These platforms can also be used to raise money for specific domestic violence agencies. The organizations can then disseminate the funds either through programming or financial assistance to clients.⁶⁸ In this regard, the crowdfunding platform can be used as a vehicle for organizational fundraising.⁶⁹ This model suggests a potentially safer opportunity for victims to access funds. However, the drawbacks are significant—access to funds is less immediate, there may be a monetary limit, and a victim's circumstances have to meet eligibility requirements of the agency in question.

D. Emergency Work Opportunities

Economic independence is directly related to access to cash and capital. Most victims fleeing violent relationships have little money, poor credit, little to no capital and either are unemployed or are forced to leave employment to secure some level of safety. How can we provide quick "fixes" related to access to money to help individuals secure independence. Is there a model that one can envision where individuals eager to work can find work immediately?

Most jobs involve an interviewing and hiring process. This process typically involves an application, provision of a resume and references, multiple interviews, background checks, potential on-the-job training and if successful, a work opportunity. Looking and applying for stable work takes time. Application to offer can be anywhere from weeks to months.

67. See, e.g., Angela Brower, *Domestic Assault/Violence*, GOFUNDME (May 21, 2014), <http://www.gofundme.com/9ewkbk>.

68. See, e.g., Jamie Pshak, *End the Silence on Domestic Violence*, GOFUNDME (Nov. 10, 2013), <http://www.gofundme.com/57cfmw>.

69. *Help Center*, GOFUNDME, <http://support.gofundme.com/hc/en-us/articles/203604054-How-do-Certified-Charity-campaigns-work-> (last visited Mar. 23, 2016).

The process by which individuals volunteer at food pantries across the country provides a working model that can be applied to emergency work opportunities for money. Food pantries across the country constantly need volunteers for a range of activities. Many food pantries do not reject applicants based on criminal backgrounds and many allow volunteers to sign up for shifts, frequency and activity on a few days' notice.⁷⁰ Further, for individuals who have already volunteered at some point in the past, the process can be expedited. Individuals who volunteer at food pantries decide on the shifts they prefer, the days they want to work and the frequency. An individual fleeing a battering partner will inevitably have different and sporadic stresses on her schedule as she settles into a safer environment; working for an organization that allows flexibility in terms of scheduling, frequency and duration would be vital to continued employment. Most importantly, a fleeing victim needs income and the ability to work without the threat of termination because of her domestic violence situation.

VI. LOOKING TO WORKING MODELS AROUND THE COUNTRY

The Crime Victims Compensation Program is administered by the Superior Court of Washington, D.C. It assists victims of violent crime and their families with crime-related expenses, such as funeral and burial costs, medical and mental health costs, lost wages, loss of support and services, clean up of a crime scene and, for victims of domestic violence, the cost of temporary shelter.⁷¹ Victims of domestic violence are eligible for this form of relief if they seek and are granted a protection order.⁷² Though the relief is immediate—victims can access emergency shelter the same day they apply for a restraining order—there are clear drawbacks. We know that a restraining order is not always in a victim's safety interest; women who leave their batterers are often at heightened risk of harm.⁷³ Requiring victims of domestic violence to immediately separate and seek a restraining in order to become eligible for shelter “assumes that getting an order will make them safe—or at least, safer.”⁷⁴ This notion is at best short-sighted and at worst dangerous. “Battered women know their situations, their batterers, and those events and decisions that

70. *Volunteer Application*, GREATER BOS. FOOD BANK, <http://www.gbfb.org/how-to-help/volunteer-individuals.php> (last visited May 24, 2016).

71. *Victim Assistance*, METROPOLITAN POLICE DEP'T, <http://mpdc.dc.gov/page/victim-assistance> (last visited Mar. 25, 2016).

72. *Crime Victim Compensation Program*, DIST. OF COLUMBIA COURTS, <http://www.dccourts.gov/internet/public/crimevictimscomp.jsf> (last visited Mar. 25, 2016).

73. Aiken & Goldwasser, *supra* note 6, at 162.

74. *Id.*

incite violence with their batterers."⁷⁵ Leaving and obtaining a protective order are two actions that can, and often do, put a victim of violence in even more danger. If a victim has decided that leaving and seeking shelter is in her safety interest but procuring a restraining order may put her more at risk, why does she become automatically ineligible for a program? Is there another way that a similar program could exist without requiring a restraining order? Are there other ways that a client can authentically and accurately document their abuse without obtaining a restraining order? Is there a way that a victim could work with victims' compensation to plan for her separation and make use of victims' services? That way, a victim could be engaged with a trained advocate or attorney who can work with her to actively safety plan prior to leaving her batterer.⁷⁶

Despite its drawbacks, the D.C. model provides services and shelter to childless victims. This is unique and states across the country should look to Washington D.C. as a model of sorts. While not perfect, it does provide access to safer confidential shelter for 30 days. This option may give victims sufficient time to make plans in their safety interest, such as accessing credit, applying and obtaining stable work, deciding to relocate, applying for housing, etc.

Most states offer address confidentiality programs (ACPs).⁷⁷ These programs offer confidential addresses (typically PO boxes) free of charge. "These programs are administered by states and enable victims of domestic violence (and sometimes victims of sexual assault and/or stalking) to conceal their location and minimize the ability of an abuser to find them."⁷⁸

Once set up, participants can use their substitute address instead of their home address to receive all types of mail including benefits checks, bank account statements, identity documentation (such as drivers licenses), school enrollment, and child support statements, to name a few. "These programs are critical for survivors to maintain the privacy of their home address"⁷⁹ Further, they provide an option for victims who are

75. Margo Lindauer, *Damned if You Do, Damned if You Don't: Why Multi-Court-Involved Battered Mothers Just Can't Win*, 20 AM. U. J. GENDER SOC. POL'Y & L. 797, 817 (2012).

76. See Sarah M. Buel, *Fifty Obstacles to Leaving, a.k.a., Why Abuse Victims Stay*, 28 COLO. LAW. 19, 19 (1999) (asserting the need for safety planning to avoid separation assault).

77. See *ACP Chart*, NAT'L NETWORK TO END DOMESTIC VIOLENCE, http://nnev.org/downloads/SafetyNet/NNEDV_ACPChart_2013.pdf (last visited Mar. 24, 2016) (showing that all states in the United States except Alabama, Alaska, the District of Columbia, Georgia, Hawaii, Illinois, Michigan, North Dakota, Ohio, Puerto Rico, South Carolina, South Dakota, Utah, and the Virgin Islands offer some form of Address Confidentiality Program).

78. *Survivor Privacy*, NAT'L NETWORK TO END DOMESTIC VIOLENCE, <http://nnev.org/resources/survivor-privacy.html> (last visited Mar. 24, 2016).

79. *Id.*

planning to leave a batterer. For victims whose moneys are absconded by their batterers when checks come in the mail (either benefit checks or pay checks) or for those victims whose batterers have access to their bank accounts, the ACP option may allow them to more safely divert funds and open new bank accounts without their batterer's knowledge or consent. This is a model that already exists in most states in the country and could be replicated and marketed as a viable option for all victims who are seeking to begin the process of economic and identity independence.

CONCLUSION

Leaving a violent relationship is not as simple or easy as deciding that one wants to live a life free from violence. The ability to leave a battering partner involves not only safety considerations but practical considerations as well. Those who have access to money (either in the form of cash or credit) and support may have an easier and advantaged position related to moving on from a violent relationship. The systems that currently exist for victims of domestic violence are not sufficient. Forcing system actors to take responsibility for victims and provide real options for independence is a challenge that is not easily solvable. That said, we must do more for victims. Providing emergency economic support in the form of emergency housing, income, and work opportunities is an initial step.