COMMMENTS

Getting Ahead with Washington’s WorkFirst Program: Are Battered Women Left Behind?

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You cannot emerge a whole human being when you escape someone who constantly beats you and berates you physically, emotionally and spiritually . . . until that searing of the soul has been attended to. There is some sort of impairment, there is something [that] happens to the psyche. The wholeness of the individual must be looked at and repaired through outside intervention. They must begin to understand what has happened to them, and why.¹

I. INTRODUCTION

Betty grew up with a violent, abusive father who burned her brother to death by putting him into a bucket, pouring gasoline over him and throwing in a lit match.² Betty’s father also shot Betty’s mother and sister several times after Betty’s aunt testified against him.

* J.D. Candidate 1999, Seattle University School of Law. I would like to thank the Law Review members, particularly Boe Boesche, for opening up to the issues of domestic violence. Specifically, thanks to my mom, who embodies the meaning of strength, and who supported me through law school; my family, Dad, Ally, and Scott, Brady and Tracy, and the Crosslands, who all continue to teach me, in unique ways, the value of independence and the power of togetherness; my twin sister Brooke, who is my better half; my best friend Ian, who makes me want to be a better person by being the most passionate and compassionate person I know; the hard workers at the Northwest Women’s Law Center and Tracy, who dedicate themselves to instilling a sense of human dignity in everyone; and to the victims of abuse, who fight a battle, with relentless strength, that no one should have to endure.


in a trial. Although Betty's mother survived, she lost the twin babies she was carrying and later became an alcoholic.

Shortly after leaving home and her abusive father, Betty met her abuser, who subsequently fathered her two children. Betty was fourteen, was a high school drop-out, and lacked the education and training necessary to sustain a job to support herself and her children. As a result, Betty and her children depended on Betty's abuser for financial support. However, Betty's abuser was unable to earn a consistent living, and was therefore unable to provide for the needs of Betty and the children. Consequently, Betty applied for welfare and became financially dependent on the state.

Betty soon realized welfare was the only financial means she could depend on that did not instigate mental or physical abuse from her abuser. When Betty attempted to work, or to complete an educational or training program, she found that the mental and physical abuse would escalate, jeopardizing the safety of herself and her children. For example, when Betty enrolled in a year-long licensed practical nursing course, her abuser "got more intimidated" the closer she got to completing the course. The night before her final exam, Betty's abuser started an argument from which Betty suffered physical abuse, sleep deprivation, and depression. Consequently, Betty failed both the exam and the course.

It was not until her abuser put a loaded gun to her head and played "Russian Roulette" that Betty finally escaped to a battered women's shelter and planned her road to independence. This road turned out to be rougher than she had anticipated. Part of her plan included getting a part-time job. Once she took this job, however, Betty's abuser began to stalk her. He would follow her when she went to the grocery store, knocking her groceries out of her hand. He would attempt to strangle her in front of the office where she worked, hoping that her boss might see the struggle and fire her. One

3. Id.
4. Id.
5. Id.
6. Id.
7. Id.
8. Raphael, supra note 2, at 3-5.
9. Id.
10. Id.
11. Id.
12. Id.
13. Id.
14. Raphael, supra note 2, at 3-5.
morning, Betty’s abuser stalked her as she waited to board the bus for work, forcing her to take refuge in the women’s restroom at a 7-11 until the police arrived to escort her out and take her to work. The deep fear and lack of concentration Betty suffered that day at work were unimaginable.

The control Betty’s abuser wielded over her caused Betty to fear for her life and the lives of her children. Betty eventually realized, however, that criminal charges against her abuser were worth the fear and the risks she faced to get her abuser out of her life. As Betty explains,

I believed that he was willing to commit suicide and even murder because he was afraid to go on with his life. The fear was very real. But I thought I was going to be dead anyway, so what did it matter? After 13 years, I wanted to be free, and if I couldn’t be free, nothing mattered any more.

Betty ultimately achieved financial independence by maintaining full-time work.

Abusive experiences such as Betty’s cause tremendous psychological, physical, and mental setbacks for victims of domestic violence. As a result, a victim’s escape from an abusive relationship can be a hazardous and grueling experience. Physical and mental abuse often leads to depression, poor concentration, fear of new challenges, and chronic anxiety, making work a constant struggle and self-sufficiency an enduring battle. In order to escape abuse, domestic violence victims must often turn to the welfare system for financial support.

Washington State’s welfare assistance program is outlined in Washington’s WorkFirst Act (WorkFirst Act). In essence, the WorkFirst Act sets forth the guidelines by which Washington will provide financial and other assistance to recipients to promote self-sufficiency. The WorkFirst Act is a result of Washington’s efforts to incorporate the mandatory reforms of the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Federal

15. Id.
16. Id.
17. Id. at 4-5.
18. Id. at 5.
21. See id.
Welfare Act).23 This federal welfare legislation includes the Temporary Assistance for Needy Families program (TANF).24 The TANF program provides federal funds to states, enabling them to create their own state welfare programs. States that choose to accept federal TANF funds are obligated to adopt certain federal requirements, including a five-year lifetime limit on recipients' entitlements to TANF funds and a mandatory work requirement.

Outside of these mandatory provisions, states have broad flexibility in designing welfare programs and in adopting measures that help recipients comply with the federal requirements. The WorkFirst Act is structured in a way that can potentially help domestic violence victims gain financial independence and thereby escape their abusive partners. However, whether the WorkFirst Act can successfully help victims gain self-sufficiency depends on the way the Act is implemented. This Comment will suggest that although the structure of Washington's WorkFirst Act could help victims become self-sufficient, the current implementation of the Act does not adequately address the particular needs of victims. As a result, a victim's chances of achieving financial independence from either the state or her abuser are minimal.

Part II of this Comment will give a brief summary of the federal guidelines under which Washington's WorkFirst Act was developed. Part III will outline the requirements of the WorkFirst Act, and in particular, the Act's provisions that address or affect domestic violence victims. Included in this section will be a discussion of the steps being taken to implement the WorkFirst Act. Part IV will define domestic violence, discuss its particular effects on women, and describe the connection between domestic violence and welfare. Part V will discuss how Washington's implementation of the WorkFirst Act negatively affects victims of domestic violence. Finally, Part VI will discuss measures Washington should adopt to mitigate the negative impact that certain requirements have on victims.

II. THE REQUIREMENTS OF THE FEDERAL WELFARE ACT

Washington's WorkFirst Act was developed in response to the TANF provisions of the Federal Welfare Act, which were designed to end needy families' dependence on government benefits.25 The


24. TANF replaces what was formally known as the Aid to Families with Dependent Children Program (AFDC) 42 U.S.C. §§ 601-87 (1994).

25. Id.
Federal Welfare Act establishes a threshold set of requirements that each state must apply to all citizens within the state who receive TANF funds. These threshold requirements include a five-year lifetime limit for which individuals can receive TANF funds, and a requirement that recipients of TANF funds engage for a minimum of twenty hours a week in one of twelve work activities listed in the Federal Welfare Act.

The Federal Welfare Act gives states, including Washington, the flexibility to create "good cause" and other exceptions to the work requirement and also permits states to exempt up to twenty percent of TANF recipients per year from the five-year lifetime limit. There are no guidelines as to the type of "good cause" or other such exemptions to the work requirement that a state can implement. To exempt twenty percent of the recipients from the time limit, states can adopt exemptions "by reason of hardship or if the family includes an individual who has been battered or subjected to extreme cruelty." Although "hardship" is not defined, an individual has been "battered or subjected to extreme cruelty" if the individual has been subjected to any of the following:

(I) physical acts that resulted in, or threatened to result in, physical injury to the individual;

(II) sexual abuse;

(III) sexual activity involving a dependent child;

(IV) being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities;

(V) threats of, or attempts at, physical or sexual abuse;

(VI) mental abuse; or

(VII) neglect or deprivation of medical care.

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26. In this Article, persons who are qualified for TANF funds (also referred to as welfare) will be referred to as individuals or recipients.


28. 42 U.S.C.A. § 607(e)(1)(A) (West Supp. 1997). The minimum average number of hours per week that a TANF recipient must participate in a work activity increases each year. Thus, in 1998 participation in a work activity must be no less than twenty hours, in 1999 participation must be no less than 25 hours, and in 2000 participation must be no less than 30 hours.

29. 42 U.S.C.A. § 607(d) (West Supp. 1997). These work activities include unsubsidized employment, subsidized private sector employment, community service programs, or vocational education training or other such training programs.


32. § 608(a)(7)(C)(i).

33. § 608(a)(7)(C)(iii).
Furthermore, states can exempt TANF recipients from the five-year limit if they adopt the federal Family Violence Option (FVO). The FVO allows the state to screen and identify recipients for a history of domestic violence; to "refer such individuals to counseling and supportive services;" and to waive, pursuant to a determination of good cause, program requirements such as time limits (for so long as necessary) for individuals receiving assistance in cases where compliance with such requirements would make it more difficult for individuals receiving assistance to escape domestic violence or [when compliance would] unfairly penalize such individuals who are or have been victimized by such violence, or individuals who are at the risk of further domestic violence.

Under the Family Violence Option, the term "domestic violence" is given the same definition as "battered or subjected to extreme cruelty." The options granted to states that choose to receive federal TANF funds and to conform to the federal time limit and work requirements give them the flexibility to address TANF recipients who suffer from the effects of domestic violence. States can choose to adopt certain exemptions from the five-year lifetime limit, such as the Family Violence Option and "hardship exemption" and can create "good cause" and other exceptions to the work requirement.

III. THE WORKFIRST ACT

In response to the Federal Welfare Act, Washington has dramatically changed the way its citizens will receive temporary assistance. The WorkFirst Act was fully implemented on November 34.

34. 42 U.S.C.A. at § 602(a)(7)(A) (West Supp. 1997). Exemptions for time limits under the Family Violence Option are included in the twenty percent exemption allowed "by reason of hardship" or if "battered or subjected to extreme cruelty." Although a bill was proposed to allow Family Violence Option exemptions outside of the twenty percent, this bill was rejected by the Committee's House Republicans for the fourth time, on November 3, 1997, even though the Senate adopted it 98 to 1.

35. § 602(a)(7)(A)(i).

36. § 602(a)(7)(A)(iii).

37. 42 U.S.C.A. § 602(a)(7)(B) (West Supp. 1997). The rest of this Comment will refer to both the exemption encompassed in the FVO and the exemption applicable to recipients who are "battered or subjected to extreme cruelty" as the FVO or Family Violence Option exemption because the same definition applies to both.
A. Washington's Attempt to Avoid Welfare Dependence: Diversion Assistance

Pursuant to the WorkFirst Act, Washington's Department of Social and Health Services (DSHS) created a Diversion Cash Assistance program (DCA)\textsuperscript{40} that offers emergency cash assistance of no more than $1500 per twelve-month period to those individuals who otherwise qualify for federal TANF funds.\textsuperscript{41} To qualify for DCA, a recipient must be in a crisis and have one or more "bona fide" needs.\textsuperscript{42} Such bona fide needs may include childcare costs, housing expenses, transportation costs, food costs (unless disqualified from the food stamp program), medical costs, and employment related expenses.\textsuperscript{43} In addition, a DSHS case manager\textsuperscript{44} must determine that the $1500 payment for the bona fide need will have a reasonable chance of helping the recipient, and that the payment will prevent the recipient from going on TANF funds.\textsuperscript{45}

Although there are no precise rules governing a family's ability to remain off federal TANF funds, DSHS case managers are encouraged to consider such factors as the current or potential income source of the recipient, the recipient's ability to remain self-sufficient, and the motivation of the recipient to stay off TANF.\textsuperscript{46} If the only barrier to work is a temporary barrier that can be overcome with $1500 or less, the DCA can move the recipient beyond this barrier and into the work place without the recipient becoming dependent on federal TANF

\textsuperscript{38} H.B. 3901, 55th Leg., 1st Reg. Sess. (Wash. 1997).
\textsuperscript{39} WASH. REV. CODE §§ 74.08A.010(1), 74.08A.200 (1998); see also Interview with June Hershey, Program Manager of Family Services at the Department of Social and Health Services WorkFirst Division, in Olympia, Wash. (Oct. 1997) (on file with the Seattle University Law Review) [hereinafter Interview with June Hershey].
\textsuperscript{40} WASH. REV. CODE § 74.08A.210 (1998).
\textsuperscript{41} § 74.08A.210(4).
\textsuperscript{42} § 74.08A.210(1).
\textsuperscript{43} § 74.08A.210(2)(a-f); WASH. ADMIN. CODE § 388-222-010(1)(d) (1998).
\textsuperscript{44} Case managers determine whether individuals qualify for certain services. When an individual goes into a welfare office, they meet with a case manager who determines her eligibility for TANF funds and who reviews and updates her needs.
\textsuperscript{45} WASH. ADMIN. CODE §§ 388-222-001, 388-222-010 (1998).
\textsuperscript{46} See Michael W. Masten, WorkFirst Interim Implementation Handbook: For WorkFirst Case Managers, 2d ed. (July 1998) (unpublished manuscript, on file with the Seattle University Law Review) [hereinafter Implementation Handbook]. Although called the interim handbook, June Hershey of the WorkFirst Division of the DSHS indicates that it is considered the final handbook, but will include some additions. See Interview with June Hershey, supra note 39.
funds. Thus, in Betty's situation (Betty would have qualified for DCA because she qualified for TANF funds), she could have used DCA's $1500 to find temporary housing for herself and her children apart from her abuser while she tried to complete the nursing class to secure a job. If Betty had been in alternative housing the night before her exam, she could have avoided the abuse that caused her to fail the exam and the course.

Still, recipients like Betty need more than $1500 to overcome the effects of abuse and to gain long-term financial independence. For Betty, the $1500 would need to cover not only temporary housing for herself and her children, but also food, childcare, and transportation for the time she was in the nursing class, as well as the time needed, after completion of the class, to secure paid employment. Furthermore, Betty does not just struggle financially—she also suffers from emotional and mental setbacks such as fear and depression that cannot be overcome by financial assistance. As a result, the financial assistance DCA provides would be insufficient for some recipients to achieve independence. Recipients who may not be able to achieve financial independence with DCA assistance will be discouraged from accepting DCA and will instead accept TANF funds. The receipt of TANF funds, however, triggers both the five-year lifetime limit and the Federal Welfare Act work requirements, which have been incorporated into Washington’s WorkFirst Act.

B. The Initial Step Upon Receipt of TANF Funds: The Job Search

The DSHS is given the power to monitor TANF recipients' obligations under the WorkFirst Act, including whether Washington TANF recipients comply with the Federal Welfare Act's work requirement.

Each Washington welfare office employs case managers who, under the guidance of the DSHS, serve as the contact point, determine a recipient's financial eligibility, and follow up on the results of a recipient's job search. A recipient's first obligation under the WorkFirst Act is to participate in a job search. A case manager must screen a TANF recipient to determine whether the recipient is

47. See Implementation Handbook, supra note 46.
49. Although there are general requirements each welfare office must consider, each office has the flexibility to tailor procedures that fit the needs of the recipients it helps. § 74.04.005.
ready to participate in a job search. The ideal welfare-to-work scenario occurs when a recipient immediately secures a job that moves the recipient from welfare dependency to self-sufficiency.

A recipient may receive a temporary deferral from an immediate job search if she is "experiencing personal or family circumstances [that] prevent the person's immediate participation in a job search." Domestic violence is an example of a family circumstance that could preclude a recipient from participation in the job search. To help case managers determine whether a recipient suffers from domestic violence, the DSHS makes it mandatory that each recipient be screened for domestic violence.

Domestic violence screening includes asking a recipient a series of questions pertaining to current and past violence and to a recipient's fear of her abuser. If it is determined that domestic violence will preclude a recipient from participating in a job search, the recipient may be given a temporary deferral.

The DSHS categorizes domestic violence victims into three levels to help case managers determine whether the victim should be deferred from the job search. Level one includes victims who have suffered from domestic violence, but who do not want or need any special program waivers or referrals. Level two includes victims who suffer from domestic violence and who want supportive services, but who do not need deferrals or waivers from work requirements. Level three includes victims who suffer from domestic violence and who need referrals to local resources and deferrals or waivers from the job search. A case manager is expected to work with a victim and to allow a victim to direct which level she meets. Thus, not all domestic violence victims are to be deferred from the job search.

Even if a recipient qualifies for a temporary job search deferral,

52. § 388-310-0100(1).
53. § 388-310-0100(2)(b).
54. §§ 388-310-0100(2)(b), 388-310-0400(1)(c).
56. See Interview with June Hershey, supra note 39.
57. The case manager must screen the recipient, but has the option of doing so in a manner that is comfortable in a given situation. If the case manager wants explicit guidance, he or she can ask the recipient a series of questions created by the DSHS. See Interview with June Hershey, supra note 39.
59. Id.
60. Id. at 3-26, 3-27.
61. 42 U.S.C. § 607. See WASH. REV. CODE § 74.08A.260 (1997) and WASH. ADMIN. CODE § 388-310-0300 (1997), which incorporate this requirement. The Implementation Handbook makes it very clear that work is the goal of the WorkFirst program. Consequently,
the recipient’s employability must still be assessed by a case manager.\textsuperscript{62} Case managers use an employability evaluation to determine the reasons the recipient could not immediately engage in a job search and to establish the support services or other WorkFirst components the recipient needs before she can engage in employment.\textsuperscript{63}

Furthermore, a case manager is also expected to create an Individual Responsibility Plan (IRP) with the recipient.\textsuperscript{64} The purpose of the IRP is to set forth a recipient’s responsibility to participate in the WorkFirst work component and to set forth the services the DSHS will provide to the recipient so she can participate.\textsuperscript{65} For instance, the IRP could refer the recipient to a social worker in the welfare office who might be able to provide more expertise on the recipient’s needs.

To equip them with the skills to work with domestic violence victims, case managers and social workers are given three hours of training on domestic violence and are given a manual prepared by the Washington State Coalition Against Domestic Violence.\textsuperscript{66} This manual and training establish the foundation by which case managers and social workers will screen, identify, and plan for recipients who suffer from abuse.

\textbf{C. A Work Activity}

Because a recipient who discloses that she suffers from domestic violence may be temporarily deferred from the job search, and therefore from holding a job, the work requirement must be met by participation in something other than a paid job—a “work activity.”\textsuperscript{67} Community service is one type of work activity that meets the work requirement.\textsuperscript{68} Washington’s DSHS has defined community service to include “[a]n activity approved by the department [of social and health services] that benefits the person, the person’s family, or the

\begin{itemize}
\item \textsuperscript{62} WASH. ADMIN. CODE § 388-310-0600 (1998).
\item \textsuperscript{63} § 388-310-0600. The type of support services offered by the DSHS include employment, transportation-related, and professional services, and other special services to equip individuals for employment. WASH. ADMIN. CODE § 388-310-0800 (1998).
\item \textsuperscript{64} WASH. ADMIN. CODE § 388-310-0700 (1997).
\item \textsuperscript{65} § 388-310-0700(1)(a-b).
\item \textsuperscript{66} See Interview with June Hershey, supra note 39.
\item \textsuperscript{67} See 42 U.S.C. § 607(c)(1)(a).
\item \textsuperscript{68} § 607(d)(7); WASH. REV. CODE § 74.08A.250(6) (1997); WASH. ADMIN. CODE § 388-310-0200(3) (1998).
\end{itemize}
person's community or tribe,"\(^\text{69}\) such as "[s]pecialized services as required by the participant to become employable or retain employment such as family violence counseling. . . "\(^\text{70}\) Although the DSHS suggests some specific activities that meet the community service definition, there are no hard and fast rules. Thus, there is room to create other activities that could meet the "work activity" requirement.\(^\text{71}\)

A community service activity that meets the work requirement has no time limit.\(^\text{72}\) Even so, WorkFirst recommends that involvement in such an activity last less than six months.\(^\text{73}\) In addition, while the federal Welfare Act requires recipients to spend only a minimum of twenty hours per week in the work activity, WorkFirst directs case managers not to hesitate to require forty hours per week.\(^\text{74}\) The Individual Responsibility Plan sets out the amount of time per week that a recipient will participate in the activity, dependent on the recipient's circumstances.\(^\text{75}\) When the community service activity ends, a recipient's employability is to be reevaluated and a new IRP is to be created. The goal is to reintroduce the recipient to the job search component and to ultimately get her employed. Thus, the support services and work activities act only as crutches that support the recipient in the initial stages until she has the ability to participate in a job search.

Although involvement in a work activity is a legitimate way of deferring a job search, a recipient who must continually defer a job search due to domestic violence runs the risk of failing to secure paid employment before the five-year lifetime limit runs out. Consequently, when TANF funds are terminated after five years, the recipient is both without paid employment and without state assistance. Unless she qualifies for an exemption from the five-year time limit, a recipient victim could be forced to return to her abuser for financial support.

D. When a Recipient Is Exempt from the Time Limit Requirements

Normally, a recipient's TANF funds cease after five years, or sixty months. If after fifty-two months the recipient is unable to

\(^{69}\) WASH. ADMIN. CODE § 388-310-1400(1)(b) (1998).
\(^{70}\) § 388-310-1400(2)(e).
\(^{71}\) The DSHS gives some suggestions for the type of activities that can be included, but suggests only that the listed activities "may be approved." § 388-310-1400(2).
\(^{73}\) Id.
\(^{74}\) Id. at 6-23, 6-24.
\(^{75}\) Id. at 6-26.
secure a job that generates enough income for her to become self-sufficient, the recipient may qualify for an exemption from the five-year limit by reason of hardship or under the FVO, allowing the recipient to extend the receipt of TANF assistance.

The FVO exemption is included in the twenty percent exemption allotted to the states under the Federal Welfare Act. Washington has fully adopted the FVO as outlined in the Federal Welfare Act. The FVO permits a recipient’s time limits to be waived after fifty-two months of participating in the WorkFirst program and after a screening for domestic violence that identifies that the recipient has a history of domestic violence, or suffers from current abuse. The identification is made by a DSHS case manager, who then determines whether the recipient qualifies for the FVO exemption. Even though a determination that a recipient suffers from domestic violence can be made at any time during the five years of receiving TANF funds, the case manager cannot grant a time limit waiver until the recipient has received the funds for fifty-two months. Furthermore, even if the recipient is exempt from the time limit, the case manager and the recipient must continue to maintain an Individual Responsibility Plan to keep the recipient engaged in a work activity for as long as the recipient receives TANF assistance.

IV. RELATIONSHIP BETWEEN DOMESTIC VIOLENCE AND WELFARE

The relationship between welfare dependency and domestic violence is alarming. Domestic violence causes victims to become destitute and forces them to resort to, and to remain dependent upon, welfare for economic reasons. Although concrete data has traditionally been sparse, recent new studies have emerged indicating the strong connection between domestic violence and welfare. One study concluded that sixty percent of women receiving public assistance in Washington reported sexual or physical abuse as adults,
usually by a spouse or a boyfriend.\textsuperscript{84} Similarly, a Chicago study on the effects of violence on work and family concluded that sixty percent of the women interviewed indicated domestic violence as a factor influencing their labor force participation.\textsuperscript{85} The most recent studies indicate that while roughly twenty percent of women on welfare suffer from current physical abuse, roughly sixty percent have suffered from abuse in the past.\textsuperscript{86} In addition, the Taylor Institute, an independent public policy research and advocacy organization in Chicago, has concluded that a strong relationship exists between current domestic violence and successful completion of welfare-to-work programs by victims.\textsuperscript{87}

There are various aspects to domestic violence that keep victims from achieving economic independence. Domestic violence is a pattern of coercive behavior that includes physical, sexual, economic, emotional, and psychological abuse.\textsuperscript{88} The control an abuser exercises over a victim forces her to turn control of her independent income over to the abuser, who then decides how much is spent and where and how the family’s resources will be used.\textsuperscript{89} As a result, victims become dependent on their abusers, losing economic independence and falling into poverty.\textsuperscript{90} Without public assistance, many victims have no means to escape their abusers upon whom they must rely for financial support.\textsuperscript{91}


\textsuperscript{85} Id.

\textsuperscript{86} See Raphael & Tolman, supra note 1, at iii. A University of Massachusetts study sampled 734 women who received AFDC benefits and found that 19.5\% suffered from current abuse and 64.9\% had suffered from abuse at some point in their lives.

A Passaic County study surveyed 846 women on AFDC and found that 14.6\% suffered from current abuse and 57.3\% had suffered from abuse at some point in their lives.

A Better Homes Fund study surveyed 220 homeless women, most of whom were on AFDC, and 216 never-homeless AFDC women, finding that 32.0\% suffered current physical abuse while 61.0\% had suffered from physical abuse at some point in their lives.

A Northwestern University study surveyed 824 English and Spanish speaking adult women in low income areas and found that 19.5\% suffered from current abuse and 33.8\% had suffered from abuse at some point in their lives. Raphael & Tolman, supra note 1, at iii.


\textsuperscript{88} See Digirolama, supra note 19, at 44.

\textsuperscript{89} See id. at 45.


\textsuperscript{91} See id. at 5.
Even if a victim is able to escape current abuse by leaving her abuser, the effects of domestic violence create a sometimes insurmountable barrier to a victim's financial independence. Physical abuse jeopardizes a victim's physical integrity and well-being, which may cause her to be ashamed to be seen in public. This in turn may prevent her from attending work, educational, or training programs. Furthermore, the psychological damage that comes from abuse instills fear in victims, isolating them from outside sources of information, support, or validation. As a result, victims are discouraged from escaping and from obtaining resources to become independent.

Among the studies that report a strong negative effect of domestic violence on a victim's ability to gain self-sufficiency are those compiled by the Taylor Institute. For instance, in the Passaic County Study of AFDC Recipients in Welfare to Work Programs, which sampled 846 women who receive federal funds, the research team found that 31.8% of the entire sample, and 54.1% of those currently in abusive relationships, suffered from severe depression. Furthermore, the study found that 10.1% of the entire sample and 18.7% of those currently abused reported having a current problem with drugs and alcohol. The study also indicates that three times as many abused women as nonabused women (39.7% of abused women compared to 12.9% of nonabused women) stated that their intimate partners actively tried to prevent them from obtaining education or training. Similarly, a study conducted by the University of Massachusetts indicates that ten times as many abused women as nonabused women were prevented from obtaining work or attending education courses (15.5% compared to 1.6%).

Even if a victim is able to move into the work force, many victims suffer from symptoms of poor concentration, decreased interest in meaningful activities, fear of new challenges, suppression of creativity,

92. See Digirolamo, supra note 19, at 45.
94. See Symposium, supra note 90.
95. See id.
96. Raphael & Tolman, supra note 1.
97. Id. at 5.
98. Id. at 4.
99. Id. at 5.
100. Id. at 8. This study also documents an account given by a job counselor of an AFDC woman suffering from abusive intervention: "I had a woman come up one day hysterical—her insides were hurting, and it was hard for her to concentrate in class. It turned out the pain was the result of injuries from sexual abuse by a man she had been in a relationship with. She had major, ongoing gynecological problems as a result of this abuse." Id.
distrust in individuals and social networks, sleep disorders, chronic anxiety, and a sense of a foreshortened future. These symptoms virtually ensure that victims will fail at work requirements, such as attendance and timelines, forcing them to remain financially dependent on their abusers. As one victim explained:

I have trouble at work as a result of past domestic violence. I have a communications defect. I don't feel I am educated enough to get my points across. I am always writing my points down. I worry that I am always missing something. I am always watching for an attack so I am on guard all the time and I am not really listening. I am always needing to ask for clarification and that angers people on the job.103

Moreover, victims often cannot meet work requirements because they are protecting themselves and their children from abuse.104 For instance, researchers in the University of Massachusetts study found that abused women were significantly more likely than nonabused women to report that they had a child with an on-going disability that limits the child's activities (33.7% of abused women compared to 19.8% of nonabused women).105 Furthermore, over twice as many abused women reported having children with a disability that kept the children from attending regular day care or school, forcing abused women to stay home to care for their children.106 Because the needs of their children often conflict with work requirements, victims of domestic violence often find it difficult to successfully maintain a job.

V. HOW WASHINGTON'S IMPLEMENTATION OF THE WORKFIRST ACT NEGATIVELY AFFECTS DOMESTIC VIOLENCE VICTIMS

The time limit and the work requirements mandated by the Federal Welfare Act and incorporated into the WorkFirst Act could exacerbate the problems associated with domestic violence.107 Leaving a violent partner is a long and dangerous process that requires major life changes such as new housing, psychological counseling, and

101. See Howell, supra note 20, at 147.
102. See id. Howell explains that these symptoms reflect a form of posttraumatic stress disorder.
103. Raphael & Tolman, supra note 1, at 10.
104. See Howell, supra note 20, at 146.
105. Raphael & Tolman, supra note 1, at 8.
106. Id.
107. See Howell, supra note 20, at 144-45.
the development of workplace skills, all of which could be severely handicapped by the Federal Welfare Act's five-year benefit limit.\textsuperscript{108}

In addition, the work requirement ignores the reality that victims have a difficult time developing skills to obtain work and meet the demands of employment.\textsuperscript{109} Work may also increase the abuse a victim suffers when her abuser feels threatened and resorts to violence in response to the victim's independence.\textsuperscript{110} A victim's job completion is often thwarted due to instances of stalking, hiding clothing, inflicting injuries that make the victim too embarrassed to go outside, visiting the job site and threatening violence, neglecting transportation duties, and draining women physically and emotionally as a result of quarrels and abuse.\textsuperscript{111} For example, the abuse the night before Betty's exam prevented her completion of the nursing class. She was also stalked at work and placed at a constant disadvantage to completing her job because of the scenes her abuser caused where she worked. Although Betty attempted to gain financial independence, her ability to work was constantly jeopardized by her abuser's presence.

As debilitating as the Federal Welfare Act's requirements are, Washington has control over how the WorkFirst Act provisions are implemented.

A. Problems with Case Manager Training

Washington has shown a commitment to addressing domestic violence in the WorkFirst Act by incorporating the Family Violence Option and by screening all recipients for domestic violence. However, the use of these provisions depends on a case manager's ability to identify and understand the needs of a victim.

The WorkFirst Act requires that all screening DSHS case managers receive three hours of training on domestic violence. Such limited training is inadequate for three reasons. First, case managers are being asked to grasp a social problem of tremendous magnitude and complexity in three hours with no additional mandated group or individual training sessions. Such limited domestic violence education could seriously debilitate a case manager's understanding of domestic violence. Requiring case managers to screen for domestic violence, to design successful individual work plans, and to grant waivers for

\textsuperscript{108} See id. at 145-46.
\textsuperscript{109} See id. at 146.
\textsuperscript{110} See Raphael, supra note 93, at 205 (citing Jody Raphael, Report of the Taylor Institute, Domestic Violence: Telling the Untold Welfare to Work Story (Jan. 30, 1995)).
\textsuperscript{111} Id. at 205-06.
certain requirements based on such limited training is too cumbersome a task and is doomed to be unsuccessful.\textsuperscript{112}

Second, three hours of training implicitly minimizes the significant role domestic violence plays in the lives of recipients. Increasing domestic violence education and training for case managers will heighten their ability to detect signs that domestic violence may be plaguing their clients’ lives.\textsuperscript{113}

Finally, three hours of training may not allow a case manager to understand the dilemma or the internalized difficulties of victims who depend on welfare to escape abuse and become financially independent. Without this understanding, victims might be placed in employment or be assigned duties that have requirements they are unable to meet, or victims might not be given exemptions after fifty-two months from the five-year time limit requirement. Without the exemption under the Family Violence Option, a victim’s assistance will not be extended beyond five years, which may force her to return to an abuser for financial support and place herself in jeopardy of suffering more violence.

\subsection*{B. Problems with the Work Requirements}

A further problem inherent in the WorkFirst Act is the inflexibility of the work requirements. Many of the problems faced by abused women trying to escape abusive situations result from attempts to return to work to become self-sufficient. For instance, although Betty had an opportunity to receive education to gain qualifications to work, her abuser prevented her from completing her educational program.

Regardless of whether victims involve themselves in training or educational programs, or immerse themselves in a job, the threat of further violence remains. If Betty were subject to stringent work requirements while employed in her part-time job, she would be required to continue working even when her abuser stalked her. Even if Betty had involved herself in a work activity that would not threaten her abuser’s financial control over her, Betty’s abuser might still stalk her as an attempt to assert dominance over her, as he did when Betty simply went to the grocery store.

\begin{itemize}
\item[\textsuperscript{112}]. The DSHS is aware of the inadequate training but has been constrained by funding. Interview with June Hershey, Program Manager of Family Services at the DSHS WorkFirst Division in Olympia, Washington (Sep. 1998).
\item[\textsuperscript{113}]. Currently, approximately eight out of ten welfare offices do not screen for domestic violence. See id.
\end{itemize}
As long as the WorkFirst Act forces victims to participate in work or work activities regardless of the victim’s situation, the Act can jeopardize a victim’s immediate safety.

C. Inadequate Research

A problem that contributes to the WorkFirst Act’s inadequacy in addressing the needs of domestic violence victims is the lack of available research and data that ascertains the extent and the degree to which domestic violence exists in Washington. The DSHS has obtained only limited concrete data that identifies the connection between domestic violence and welfare, the success rate of victims who attempt to integrate into the work force, the extent to which victims disclose their problems, and the capacity in which such disclosure takes place.114 Without more such data, it is virtually impossible to convince the legislature that domestic violence is a prevalent barrier for many victims to a successful welfare-to-work program. As indicated earlier, sixty percent of women who receive assistance suffer from violence and corresponding difficulties. Without more relevant data, the Washington legislature lacks the necessary foundation for addressing the needs of domestic violence victims.

VI. WHAT WASHINGTON CAN DO

Washington must make a concerted effort to avoid creating situations where the safety of victims is further jeopardized. To achieve this, Washington must first recognize the significant effects domestic violence has on the success or failure of victims in employment. One way to do this is to implement studies throughout welfare offices with the goal of determining how significant a role domestic violence plays in the lives of the TANF recipients in Washington. Such research and findings are imperative for advocates who attempt to influence the legislature to change or adopt measures that benefit domestic violence victims.

However, recognizing the problem is only the first step. Of equal importance is the implementation of the WorkFirst Act, and in particular, implementation of the provisions that address domestic violence victims, such as the Family Violence Option, the screening procedure, and the design of individual work plans. Effective use of these provisions cannot depend on case managers who have only three hours of training. One way to effectively address victims’ needs

114. See Interview with June Hershey, supra note 39.
through the provisions in the WorkFirst Act is to spend more time with case managers both on domestic violence training and on using WorkFirst in a victim’s favor. For instance, a case manager could use the Diversion Cash Assistance program as a way to get cash to the victim who needs money for safety planning before she enters the work force. Under this program, a recipient is not required to comply with the WorkFirst work requirements. Rather, a recipient need only be in a crisis situation with “bona fide” needs. A victim’s lack of personal safety constitutes a crisis, and aspects of fleeing domestic violence, such as finding new housing and childcare services, constitute “bona fide” needs.

If a recipient accepts TANF funds instead of diversion assistance, then a case manager can defer a recipient from her job search if the recipient is experiencing personal or family circumstances that prevent her from participating in a job search. To meet the work requirements while deferred from a job search, a case manager can set out an individual responsibility plan that includes safety planning. Safety planning can satisfy the work requirement under the community service activity, as benefiting the recipient’s family. The case manager should not be encouraged to move the recipient out of this safety planning activity to search for a job when this could impede the recipient’s ability to establish her safety. Rather, when a recipient is determined to be a victim of domestic violence, the case manager should be encouraged to use whatever means possible to keep the recipient safe. Because domestic violence victims who leave an abusive relationship have to deal with new housing, psychological setbacks, and care for their children, they should not be discouraged from doing so by time constraints such as those imposed upon the receipt of TANF funds.

Even though case managers can use the above-mentioned provisions in the WorkFirst Act to help domestic violence victims, it is unlikely such provisions will be used unless victims are encouraged to disclose that they suffer from violence and unless victims are partnered with a case manager who is well-equipped to help them.

Because it is doubtful that every case manager can be adequately educated to understand a victim's needs, Washington should provide the DSHS with funds to conduct more intensive training to equip one case manager per welfare office with a complete and thorough understanding of domestic violence and its effects on a victim's ability to perform jobs and activities. This case manager should not only create individual plans for victims who are screened and determined to have suffered from violence, but should also continue to educate other
case managers about domestic violence so that they may better screen for it. Although other case managers should still be employed to conduct screenings, once it is determined that an individual has experienced, or is experiencing, violence, no matter what the degree or kind, that individual should immediately be referred to the case manager trained for the sole purpose of planning for victims. This will ensure that the victim participates in an individual plan that revolves around her abilities and skills.

Because victims can escape to domestic violence shelters, as Betty did, shelters are logical places to start educating victims about their obligations under the Act and to start designing plans for them. Thus, Washington should also provide funds for training an advocate at each of the women’s domestic violence shelters across the state, equipping each advocate with the knowledge of the WorkFirst Act and the options victims have under the Act.

The advocate need not be a case manager funded by DSHS. Rather, the advocate should be independent, funded by the state and chosen by the shelter. This would ensure that shelters do not become institutionalized entities that victims distrust. The advocate should be available at the shelter as a source for victims to gain information regarding their rights and obligations under the WorkFirst Act. In addition, the trained advocate should have the power to create and implement individual plans for victims under the WorkFirst Act that are as effective as those created at a welfare office. If an advocate is available at each shelter, then victims have one more accessible place in which to work toward achieving the welfare-to-work goals set out by WorkFirst.

The creation of both the position at each shelter and the position at each welfare office could resolve the problems associated with having to train each and every case manager adequately. A trained advocate in women’s shelters would give victims a protected environment to learn about the WorkFirst requirements. Furthermore, a victim would be more likely to fully disclose both the abuse and the resulting difficulties in a protected environment, allowing the advocate to create the most personalized and effective individual plan possible. It is imperative that victims be able to depend on someone who understands the totality of their circumstances and the effects that violence has on them.
VII. CONCLUSION

Victims must be at the forefront of Washington's welfare program. The fact that sixty percent of female welfare recipients have at some point suffered from domestic violence is itself a drastic number. To refuse to take this number into account and to avoid addressing it head on is to deny over half the female welfare recipients an opportunity to escape from past and current abuse. Betty's situation is not unique; such situations exist under the welfare umbrella in a majority of cases. To ensure that victims like Betty can count on Washington to confront the disastrous and troubling barriers they face, Washington must continue to work with advocates, with the community, and with victims to combat the plague of domestic violence and its debilitating results.