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# **POVERTY AND VIOLENCE: DOES NEW YORK'S FAMILY VIOLENCE OPTION MAKE A DIFFERENCE?**

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## EXECUTIVE SUMMARY

It is estimated that one in four women experience domestic violence, but 50 to 60% of women receiving public assistance have been victims of domestic violence, with 20 to 30% having experienced domestic violence within the past year. The potential impact of abuse is all too well-known, in terms of physical and mental well-being, the capacity to secure and retain employment, and to successfully care for one's self and a family.

Mindful of the scourge of domestic violence, when Congress adopted the Personal Responsibility and Work Opportunity Act of 1996 – often referred to as Welfare Reform – they created the Family Violence Option (FVO). Taking this option committed states to engage in a process that takes into account the urgent need of the victim of abuse for basic benefits, the requirements that must generally be met to maintain eligibility for the benefits, and the safety needs of the victim. The process involves these steps:

- Upon arrival at the welfare center to apply for benefits, the client is offered the opportunity to be preliminarily screened for domestic violence;
- Those who claim a domestic violence situation are referred to a Domestic Violence Liaison (DVL);
- The DVL conducts an in-depth assessment with the client and determines whether their claim of domestic violence is credible.
- If the client's claims are found credible, they are provided with referrals for appropriate services. In addition, they can be given a waiver of certain welfare requirements, such as the obligation to cooperate with the Department of Social Services (DSS) in pursuing child support and to engage in work activities. Waivers are to be granted when complying with these requirements might put the client at risk of harm, or make it more difficult for them to escape from a dangerous situation.

New York adopted the Family Violence Option in 1998. Over the years since the FVO was initiated, Empire Justice Center and others have periodically monitored the program and its implementation, have provided testimony regarding our concerns, and have trained advocates on the FVO process, how to access it and how to enforce it. Now, just over 20 years since it was established, Empire Justice Center has undertaken this examination of the program to determine what aspects of the Family Violence Option are working well in New York State and to identify ways it can be improved.

This report begins with a review of past evaluations of the FVO, both in New York State and around the country, and then examines the FVO process in detail, accompanied by information gleaned from interviews with stakeholders throughout the state. These sources have resulted in what we believe to be a representative, statewide overview of the key issues regarding the FVO. The report does not endeavor to rate the counties or to make judgments in any way about particular counties or individuals. Rather, the recommendations focus on patterns that arose consistently and repeatedly in research and in discussions with stakeholders and identifies ways to address the concerns that emerged.

The report is organized to parallel the steps in the FVO process:

1. ***The client's arrival at DSS – Information received:*** An often-raised issue concerned the adequacy of information provided to clients as they begin the public assistance application process. The application packet contains information about the FVO, but clients who are fleeing an abusive situation are likely suffering from intense stress, fearful for their well-being and that of their children, and urgently in need of assistance. They may also have limited English proficiency, limited literacy, concerns about retaining custody of their children, about immigration status and a general lack of trust in large government institutions. In this environment, packets with a great deal of information, without clear, repeated, verbally-provided information are simply inadequate.
2. ***The initial screening for domestic violence:*** During this initial interaction at DSS, the client should receive, along with many other documents, a screening form where they can indicate that they have a domestic violence problem. If they do so, the application process should stop, and they should be referred to a Domestic Violence Liaison (DVL). If they do not claim a domestic violence problem, they will continue on through the welfare application process.

In the course of the research and interviews for this report, it became a matter of increasing concern that a significant number of domestic violence victims do not acknowledge the problem and thereby forfeit the benefits of the FVO. This issue is discussed in some detail in the report.

3. ***The assessment of credibility and the granting of waivers:*** As noted above, once clients claim a domestic violence problem, they are put in direct contact with the Domestic Violence Liaison (DVL). This is usually an in-person interaction, but is sometimes done by telephone, a practice that was generally seen as less desirable.

The DVL has a number of responsibilities. Chief among them, the DVL:

- Assesses the clients' domestic violence claim;
- Assesses the clients' safety and need for services, and discusses the options with them;
- Gathers information to determine whether the client should be granted any waivers, and if so, which waivers and for how long, and
- Helps the client develop a safety plan.

To conduct the assessment, DVL's are urged, but not required, to use the "Model Assessment" tool. The tool is designed to assist the DVL in determining whether the client's situation meets the legal definition of domestic violence, whether the client might have documentary evidence of the abuse, such as a police report, and whether waivers might be warranted.

Interviewees were generally quite positive about the DVLs, observing that many seem to have a passion and dedication to the work that they do. There were some advocates who felt that some DVLs are unduly skeptical of the clients' domestic violence claims, being mindful, for example, that making such a claim might improve chances of securing subsidized housing.

With regard to the findings of credibility we found that there is something of a disconnect between interviewees' positive regard for the DVLs, in apparent contrast with the significant number of domestic violence claims that are found not credible. Many, if not all, DVLs seemed strongly inclined to accept the clients' claims; one DVL quoted her agency's informal motto, "begin by believing." But statewide data indicates that 40% of domestic violence claims statewide are found not credible. Further analysis is warranted to better understand these outcomes.

Interviewees seemed to find that the waiver process worked reasonably well, though some expressed the view that clients fared better when they had an advocate.

**Recommendations:** The report concludes with a substantial number of recommendations, ranging from those requiring major funding or significant legislative changes, to those that might be accomplished by a supervisor at a local DSS office. We highlight here five recommendations that are most strongly supported by the research and the interviews:

1. *Housing and public assistance:* The success of anti-domestic violence efforts is seriously diminished if safe, stable housing is not in place. There is a critical need for more affordable housing and for an increase in the rent portion of the welfare grant. This can be accomplished by enactment of Home Stability Support, an initiative in the New York State Legislature that would significantly increase the public assistance rent allowance, enabling households to pay up to 85% of the local Fair Market Rent (as defined by the Federal Department of Housing and Urban Development).
2. *The non-rent portion of the public assistance grant:* The need to increase the rent allowance is addressed above, but in fact, all components of the grant consign the recipient to a permanent crisis in the ability to meet basic needs. The entire grant needs to be brought more in line with the cost of living in New York.
3. *DSS staff training:* Our interviews repeatedly reflected a perception that too many DSS staff members were not sufficiently aware of the significance and the details of the FVO process. Recognizing that training poses logistical and staffing challenges, it is nevertheless imperative and, we would suggest, mutually beneficial, for staff as well as clients, that staff be well-trained in the rules of the process and in recognizing domestic violence problems that may not have been acknowledged. It should be offered as often as is feasible and attendance should be mandatory.

4. *Acknowledging a domestic violence problem:* Many interviewees identified the failure of a substantial number of clients to advise DSS that they have a domestic violence problem. There may be multiple reasons for this, but we recommend that staff be provided with periodic training on how to create a setting where a client can feel comfortable in engaging in this difficult conversation.
5. *Providing information:* Our interviews invariably raised a concern that clients had not understood the FVO, what it had to offer or what had to be done to access it. This may be yet another call for additional training, but in this case, it relates not just to an understanding of the FVO, the rules, the process, but also how information can best be conveyed to and elicited from clients managing with stress and anxiety.

**Key Findings:** In addition to recommendations related to improving FVO implementation in New York State, a number of broader systemic issues were identified as crucial to the capacity of domestic violence survivors to escape abuse and move forward with their lives:

1. *Housing is a fundamental need:* A primary, possibly overriding priority for victims is to locate safe, affordable and stable housing.
2. *The significance and inadequacy of public benefits:* Interviewees emphatically agreed that public benefits were crucial to a victim's ability to attain some stability in life, but that benefit levels are not sufficient to bring about that critical stability.
3. *Intensified impact on immigrants and other marginalized communities:* Virtually every challenging aspect of the FVO process is all the more daunting for immigrants, who face barriers in terms of language, cultural norms and fear regarding their legal status in this country. Comparable challenges also confront members of marginalized communities, including people who are LGBTQ, people of color, and people who have mental or physical disabilities. Too many members of these communities struggle to make ends meet, and are victims of employment discrimination, housing discrimination, police violence and other forms of violence, including intimate partner violence. There is an urgent need to address these issues on a societal level, but the effectiveness of the FVO also requires a determined effort by local Departments of Social Services to better understand the needs of all who come to them for assistance.
4. *The need for advocates:* Interviewees repeatedly asserted that, simply stated, positive outcomes were much more likely when an advocate was involved.

## **1. INTRODUCTION: DOMESTIC VIOLENCE, PUBLIC ASSISTANCE BENEFITS AND THE FAMILY VIOLENCE OPTION (FVO)**

Domestic violence occurs in epidemic proportions and impacts millions of Americans and thousands of New Yorkers every year. In 2017, more than 230,000 orders of protection were issued by New York courts, and more than 18,000 applications for public assistance indicated danger due to domestic violence. Nationally, it has been estimated that at least 20% of women have experienced domestic violence.<sup>1</sup> And among those receiving public assistance, the primary focus of this report, an estimated 50 to 60% have faced domestic violence, and at least 20 to 30% have experienced abuse within the past year.<sup>2</sup>

It is also important to recognize that people from marginalized communities, including immigrants, people who are LGBTQ, people of color and people with mental or physical disabilities share unique barriers and obstacles relative to their status. People from these communities are more likely to live in conditions of poverty and are subject to domestic violence at least as frequently as other populations living in poverty, much more so in some communities. At the same time they experience other daunting challenges to progress, such as discrimination in housing and employment (the experience of marginalized communities is discussed further in Section 4, below).

Domestic violence occurs without regard to gender identity, sexual orientation, race, religion, economic status, race, disability, age, religion, and other socio-economic statuses. An abusive partner uses a variety of coercive tactics to obtain and maintain control over their victim. These tactics can include physical violence, threats, emotional abuse, stalking, sexual abuse, and financial and economic abuse. Intimate partner abuse can both force victims into poverty and act as an almost insurmountable barrier against escaping poverty. Domestic violence often undermines victims' ability to work, to have a safe and decent place to live, or to pursue a more stable life for themselves and their children.<sup>3</sup> Domestic violence is the third leading cause of homelessness among families in the United States.<sup>4</sup> These economic impacts only serve to compound the other traumas inflicted upon the victim by their abuser.

In 1996, Congress enacted the "Personal Responsibility and Work Opportunity Reconciliation Act" (PRWORA). PRWORA replaced the federal public assistance program, "Aid to Families with Dependent Children," with a substantially restructured program, Temporary Assistance for Needy Families (TANF).<sup>5</sup> TANF thereafter became the primary public assistance (hereafter PA, or welfare) program providing cash assistance to eligible low-income households with children. Among the many features of federal PRWORA, states were required to implement more stringent work requirements, to screen applicants for substance abuse issues, and to mandate that single-parent applicants cooperate with the local welfare agency in securing child support from the absent parent.

However, it was recognized that for a significant number of low-income victims who have experienced domestic violence in the home, compliance with these requirements might

jeopardize their safety as well as the safety of their children. For example, if the local welfare agency assigns the domestic violence victim to engage in a work activity, the travel to and from the worksite or at the worksite may leave the victim vulnerable to stalking, harassment, assaults or other dangers.

To specifically address this concern, when Congress adopted PRWORA, they inserted an amendment creating the Family Violence Option or FVO. States were not mandated to implement the FVO, but most did.<sup>6</sup> States taking this option, like New York, would establish the following process:

1. All applicants coming into the welfare center receive information about the FVO and about public assistance eligibility in general
2. There is an initial screening for domestic violence, providing clients with the voluntary opportunity to state that they have a domestic violence situation
3. If domestic violence is indicated, the client is referred to the Domestic Violence Liaison (DVL)
4. The DVL's responsibilities include:
  - a. Assessing the credibility of the client's domestic violence claim
  - b. Providing referrals for services and counseling
  - c. Granting waivers of certain welfare requirements. The specific requirements subject to waiver under the FVO include:
    - Residency rules,
    - Child support and paternity cooperation requirements,
    - Alcohol and substance abuse screening and referral requirements,
    - Employment and training requirements, and
    - Federal TANF time limits.<sup>7</sup>
  - d. Evaluating the need for immediate assistance, such as the need for shelter
  - e. Developing a services plan – referrals that have been offered, and services that will be provided

The primary objective of the FVO was to ensure the safety of domestic violence victims or to, at a minimum, help ensure that applying for and receiving public assistance would not expose them to greater risk of danger. Ideally, the FVO also would help to connect them with needed supports to move towards safety, employment – a core value of welfare reform – and independence.

#### ***(a) APPROACH AND METHODOLOGY***

In the years since New York adopted the FVO, Empire Justice Center and others have periodically monitored the program and its implementation, have provided testimony regarding our concerns, and have trained advocates on the FVO process, how to access it and how to enforce it. The objective of this report is to use the 20-year anniversary of the adoption of this

historic law to examine the current implementation and operation of the FVO, and to suggest ways in which its operation might be enhanced. To do this, we have:

1. Conducted a selected literature review to better understand prior challenges and concerns around FVO implementation to learn if these problems continue to this day and if others have emerged.
2. Provided an in-depth examination of the FVO process, with analysis gleaned from interviews with stakeholders from around New York, local service providers, legal advocates, state and local officials, among others, and examination of the most current data statewide.
3. With the information we gathered, we hope to provide readers with a snapshot of current successes and challenges we uncovered that can be useful both locally and statewide. Finally, we used this information to develop a comprehensive series of recommendations that should be considered moving forward.

Our interviews and research have resulted in what we believe to be a representative, statewide overview of key issues regarding the FVO. The report does not endeavor to rate the counties or to make judgments in any way about particular counties or individuals. Rather, the recommendations focus on patterns that arose consistently and repeatedly in research and in discussions with stakeholders and identify ways to address the concerns that emerged.

We hope that the report will succeed in providing a sense of the workings of the FVO today, identify ways in which it serves domestic violence victims well, and ways in which changes might be beneficial. We further hope that administrators and policy makers will use the report to examine their implementation of the FVO and think in terms of how they might further enhance the important work that they do.

**A final note about the report:** Our original intent was to offer a statewide overview and then focus in on Long Island. But as the work progressed, it became clear that there is both wide variation from county to county and, at the same time, common themes that emerged throughout the state. The result is primarily a statewide perspective.

### ***(b) THE SIGNIFICANCE OF PUBLIC BENEFITS AND THE FAMILY VIOLENCE OPTION***

As we know, the Family Violence Option exists in the context of an application for public benefits. The FVO is initiated when a person comes into a welfare center to apply for public assistance and is asked whether she is a victim of domestic violence. Before moving into the discussion of the FVO, it is therefore worth examining the significance and adequacy of these benefits to the individual and her family.<sup>8</sup>

In her article, “The Difference Between Surviving and Not Surviving...,”<sup>9</sup> author Shaina Goodman declares that “...for domestic violence and sexual assault victims, the public benefits programs that support basic economic security are of critical importance...”. She observes that women living in poverty are disproportionately likely to experience domestic violence, and that “...violence perpetrated against them can make it nearly impossible to climb out of

poverty.” Goodman argues that having access to the array of public benefits, such as Medicare, Medicaid, public assistance, SNAP (Food Stamps), unemployment insurance benefits and housing subsidies, can significantly improve economic stability for domestic violence survivors. She also observes that improved financial security can help to reduce domestic violence. The benefits a person or family might receive in New York are often not enough to achieve the stability characterized by Goodman, but they are clearly essential. With even a modicum of financial and especially housing stability, survivors of domestic violence might be better able to address the remaining challenges in their lives. Goodman notes that one manifestation of domestic violence is financial abuse, where the abuser asserts complete control over household finances. Financial abuse often continues even after a victim leaves—abusers may fail to pay child/spousal support, damage a victim’s credit, take away vehicles, and engage in other actions that jeopardize the fragile finances of the victim. Access to an independent source of income such as public benefits, particularly where employment might not be feasible, can be invaluable.

Despite the importance of benefits, advocates are aware that many people in need of this assistance have considerable difficulty accessing it. They may not fully understand the process, are frequently unable to collect the required, voluminous documentation, and may struggle to fulfill all of the tasks demanded of them, including getting finger-imaged, pursuing unemployment insurance benefits, reporting for work-related assignments and cooperating with DSS in court actions to obtain child support. If the applicant has recently experienced the trauma of abuse or has mental and/or physical disabilities or limited English proficiency, the process may be overwhelming.

Advocates we interviewed expressed many of the views espoused by Shaina Goodman, including the importance of public benefits and their serious inadequacies. Interviewees were nearly unanimous in arguing that the grant was not sufficient for a single person or family to manage, and many focused on the rent portion of the grant as most problematic. One advocate observed that the rent allowance predetermined where the client could afford to live, often in less safe neighborhoods, sometimes making it harder to avoid the abuser. Many felt that benefit levels were insufficient to bring about the stability about which Goodman writes.

Welfare budgeting rules also were raised as a problem, particularly the extent to which modest earnings from a job reduce the value of the monthly grant. A particular problem for those residing in domestic violence shelters is the fact that under current rules, any earned income will result in the woman’s having to make a substantial contribution to the shelter cost.<sup>10</sup> This may seem reasonable, but it is ultimately shortsighted: it diminishes the value of getting a job, already a major undertaking for a domestic violence victim and it also eliminates an opportunity to accumulate savings that might have aided a move to permanent housing. A similar problem arises when a victim of abuse has managed to put aside some savings before leaving the home of the abuser. If the savings exceed the very modest \$2,000 resource limit, then they are ineligible for public assistance. This would in turn render them ineligible for DSS payment of the shelter costs, at least until they have exhausted their “excess” assets, a thoroughly counter-productive outcome.

## 2. PRIOR STUDIES OF THE FAMILY VIOLENCE OPTION

### *(a) GENERAL AND CONSISTENT OVERARCHING CONCERNS*

Academics, nationally-oriented advocacy groups, more locally-based advocates, legal organizations and government entities have all studied the implementation of the FVO over the last two decades since its creation. In embarking on our own report, we deemed it essential to review a significant sample of the literature studying the successes and limitations of the FVO thus far. Given the two-decade span of the FVO, we also wanted to better understand the evolution of the FVO, so we looked at documents ranging from studies published in the earliest years of its existence to relatively recent research. That foundation provided by these past evaluations guided us in both framing the issues, as well as focusing attention on areas that appeared to be most challenging to the effectiveness of the program.

Overall, the research conveys that the FVO was a well-intentioned legislative initiative, with the primary goal of ensuring the safety of domestic violence victims who come into contact with the welfare system. Nevertheless, there are multiple challenges to its capacity to achieve that goal. The studies span a wide terrain, from “big picture” critiques of the federal Temporary Assistance for Needy Families (TANF) system within which the FVO resides to very front-line examinations of, for instance, the way in which the domestic violence victim first acquires information about the FVO. From these studies, a few general observations can be made.

First, the FVO is seen as a valuable tool, but there are perceptions that, while assisting many, it is not living up to its potential. Commentators found “weak implementation and utilization...,” the failure to adequately identify DV victims, and the fact that it was generally regarded as simply not working well.<sup>11</sup>

Additionally, a number of commentators bemoaned the lack of consistency in implementation, so that the experience of a person seeking assistance may vary dramatically depending on whether she has pursued benefits in County A rather than County B. In addition to the questions of fairness this disparity raises, when the details of different agencies’ practices are not carefully documented, it becomes extremely difficult to compare programs and to determine what does or doesn't work.<sup>12</sup>

Those caseworkers or advocates who have worked for many years within the welfare system know that it can be a daunting experience, particularly for someone struggling within an intensely stressful, even traumatic, situation. Many studies noted that the paperwork required of clients in general, the documentation demanded, the quantity of paper and information disseminated can be overwhelming for anyone, let alone someone who has been traumatized. For public assistance applicants who have experienced domestic violence, many do not understand the FVO or its potential value to them and they find it difficult if not impossible to discuss their situation with candor in such an overwhelming setting.<sup>13</sup>

While the research often raised valid questions about the skills and training of Domestic Violence Liaisons, concerns were raised even more so about the initial intake and reception

staff that the individual first meets with in the welfare center. Critically, the outcome of a brief initial interview with welfare agency staff, who may or may not have any training related to domestic violence or trauma-informed interviewing, can determine whether the person will have access to the benefits of the FVO.<sup>14</sup> This is because it is during that first interaction that clients have the primary opportunity to disclose a domestic violence situation. If for some reason – whether lack of information about the FVO, lack of understanding or lack of trust – they do not indicate that there is a domestic violence problem, then they may not be guided into the FVO process. Many studies raised concerns about how information on the FVO was conveyed – or not conveyed – to the intended beneficiaries of the program.<sup>15</sup>

Finally, many studies reflected upon factors beyond the scope of the FVO. Most notably, they discussed the severe inadequacy of TANF benefits, and the impact of changes wrought by the federal welfare reforms of 1996. With these changes, the TANF program has experienced a long-term decline in funding for basic assistance, rules have become more rigid and, at times, punitive in program administration. Thus, even an effectively administered FVO program can be of less than optimal value because of these factors – low benefit levels, punitive administration – only indirectly related to the FVO.<sup>16</sup>

#### ***(b) GOING TO THE WELFARE CENTER – INFORMATION***

The better informed the victims of domestic violence are about the Family Violence Option, the more likely they are to take the necessary steps to benefit from its provisions. The value of the FVO to the individual may initially depend on whether information is provided in a timely and accessible fashion. A number of prior FVO evaluations found that essential information was either not provided or was provided in a way that diminished its value when, for example, FVO information would be included in a large document or pile of documents covering multiple programs.

Researchers reported that domestic violence victims were not adequately advised that the information they provided to their caseworkers would be strictly confidential, nor were they informed about the possible value to them of the FVO.<sup>17</sup> The Shortchanging Survivors report suggested that repeated verbal notice is needed to supplement written notification. Similar findings were made in the Not Enough report.<sup>18</sup> A review of FVO rules and programs around the country led to concerns about the ways in which clients at welfare centers were notified about the FVO and about the likelihood that too many clients did not disclose DV because they were not aware of the FVO and the assistance it could provide.<sup>19</sup>

A quite early study found that a significant percentage of public assistance applicants did not receive information about the FVO process or were not provided with written notification of the initial domestic violence screen, and less than 5% of applicants were given the initial screen.<sup>20</sup> Other, more recent, studies also expressed continued concerns about this up-front screening process, though from a different perspective. They talked about a need to repair the screening process, to increase caseworker sensitivity, to train staff how to establish a better rapport with domestic violence victims and to provide effective and consistent screening.<sup>21</sup>

### ***(c) WILLINGNESS TO DISCLOSE DOMESTIC VIOLENCE***

Early in the research it became clear that there is a threshold issue, not precisely within the realm of the FVO that needed to be addressed. The FVO is triggered when the client indicates that they experienced domestic violence. If that claim is never made, they will not have access to the FVO and its many protections. The centrality of this issue is reflected in prior FVO evaluations and in this report as well.

Numerous evaluations of FVO implementation, from the earliest of these reviews to the most recent, have found that many public assistance applicants who are living in a threatening or abusive situation do not, even when appropriately asked, acknowledge the problem. It is difficult, if not impossible, to identify with precision the number of victims who fail to claim an abusive situation, but a reasonable measure might be to compare the prevalence of domestic violence in low-income populations in general with the percentage of domestic violence claims made by applicants for public assistance.

An early study in Maryland used available information to estimate that one in four women receiving welfare benefits were experiencing domestic abuse, but found that only one in 100 women applying for welfare indicated that they were experiencing abuse.<sup>22</sup> Similarly, a 1998 report by the Government Accountability Office cited estimates that 15% to 56% of welfare recipients are DV survivors.<sup>23</sup> Another report highlighted two studies, one in New York State in 1998, the other in New York City in 1999, in which only between 1 and 2% of public assistance applicants were referred to a DVL.<sup>24</sup> Perhaps this startlingly low referral rate reflects missteps in the first days of FVO implementation, but it affirms the importance of early and accurate identification of victims of domestic violence.

Other reports explored possible issues with the nature and quality of domestic violence screenings and assessments. A 2008 report found that welfare caseworkers rarely used interviewing tools seen as essential in encouraging women to divulge domestic violence they might have experienced.<sup>25</sup> In 2007, Empire Justice Center observed that 36 counties in the state reported that fewer than 30 individuals had indicated domestic violence at the initial screening, indicating clear problems with screening and identifying domestic violence across most of New York State.<sup>26</sup> Other researchers found or expressed a strong belief that too many victims were not reporting their situation.<sup>27</sup> Alarming, one study concluded that initial domestic violence screenings failed to identify 86% of women who were victims of recent violence.<sup>28</sup> Given that screening and identification is the primary catalyst for accessing supportive waivers and other FVO interventions, this consistent red flag indicates that current screening methods and tools must be subjected to careful scrutiny.

A number of the evaluations discussed the reasons why victims may elect not to disclose their domestic violence situation. Factors that were repeatedly raised include:

- Difficulty in discussing experiences that are intimate and painful;
- The practical difficulties of discussing this topic in an institutional setting, particularly where the person may have had prior difficult experiences with the welfare system;

- The caseworker’s lack of empathy or skills in establishing client trust;
- The caseworker’s lack of familiarity with or failure to explain the FVO;
- Fear that disclosure may put her at risk of having her children removed by child welfare authorities, who sometimes worked within the same welfare system;
- The lack of privacy in the location where the discussion takes place, including, at times, the presence of the abuser;
- The client’s preference to participate in work activities or pursue child support (rather than have either of these requirements waived);
- Concern about jeopardizing their immigration situation or facing deportation;
- The lack of English language proficiency or literacy.

***(d) THE DOMESTIC VIOLENCE LIAISON (DVL) – ASSESSMENT OF CREDIBILITY – GRANTING OF WAIVERS***

Once the individual has indicated that she is experiencing DV, she should be referred to the DVL, who will assess whether the claim of DV is credible and, if so, will refer her for services and counseling, and determine whether certain welfare requirements will be waived.

In prior FVO evaluations, multiple researchers noted what seemed to be a surprisingly high percentage of women who claimed domestic violence but were not found credible or, if found credible, were nevertheless denied waivers. In its 2007 testimony, Empire Justice Center was also concerned when it found that in New York, many domestic violence victims were admitted to a domestic violence shelter – having clearly been found credible by those who determined to give her a bed in the shelter – only to have their claim of abuse found not credible by the DVL. From 2000 to 2007, only 58% of those in New York who had claimed DV were found credible.<sup>29</sup>

Where an unduly large number of persons claiming domestic violence are found not credible, researchers cited a few possible reasons:

- A number of reports expressed concern regarding the qualifications and experience of DVLs and the adequacy of their training. Some saw as problematic the fact that not all DVLs worked full-time, or full-time on domestic violence matters, and might be distracted with other responsibilities that prevented them from giving adequate attention to the critical work of the DVL;<sup>30</sup>
- There was concern that workers have at times been directly or more subtly encouraged to deny waivers and to take other steps to keep the welfare rolls down;<sup>31</sup>
- Concerns with “welfare fraud”, may have trickled into credibility determinations for domestic violence. It may be misperceived that the victim is attempting to gain something, such as avoidance of work requirements or a coveted higher priority on subsidized housing waiting lists for which victims of domestic violence may have a priority.<sup>32</sup>

## Waivers

When victims are determined to be credible, they may be entitled to waivers of certain public assistance requirements. Despite this, whether and to what extent waivers are granted when a finding of credibility *has* been made remains an ongoing concern.<sup>33</sup>

Discussing New York data from 2007, Empire Justice Center observed striking variations among the social services districts in waiver determinations. In that year, a number of social services districts had granted few or no waivers, while others had authorized waivers in 90% or more of cases in which a DV claim had been found credible. Our testimony argued that this inconsistency, particularly with regard to the districts where few waivers were granted, indicated problems in the waiver assessment processes and suggested that districts with glaringly low numbers of waiver grants may have been abusing their discretion.

Similarly, the National Law Center on Homelessness & Poverty (NLCHP) 2009 study also remarked on the disparity between the numbers of victims who credibly claimed domestic violence as compared with the number who were granted waivers in the FVO process.<sup>34</sup> The NLCHP study also noted that the denial of waivers seemed more common where the decisionmaker was a TANF caseworker, rather than a DVL.

### **3. DETAILED ANALYSIS OF THE FVO STEPS AND OF FEEDBACK FROM INTERVIEWS**

**How this section of the report is organized:** After a brief introduction to the implementation of the FVO in New York, the text that follows (1) sets forth, in some detail, the basic process established by FVO and (2) provides discussion and commentary on implementation of the FVO in New York, based primarily on interviews with stakeholders.

#### New York's Implementation of the FVO

New York adopted PRWORA just over 20 years ago, with the New York Welfare Reform Act of 1997, effective April 1, 1998. In so doing, it elected to adopt the FVO, enacting provisions that quite closely track the federal law and regulations.<sup>35</sup> As the federal law requires, New York's FVO program includes procedures for notifying public assistance recipients of the FVO, screening for DV, assessing the violence, referring the individual for services, developing a safety plan if necessary, and determining which waivers of public assistance, if any, are appropriate.

Since its inception, the FVO has been overseen by the NYS Office of Temporary and Disability Assistance (OTDA). In those two decades, there have been modest changes in the law and regulations, and a number of administrative guidance documents have been issued by OTDA in order to more effectively implement these critical protections. [The state statute and regulations and the guidance documents can be found in Appendix 1.]

Before discussing the steps in New York’s FVO process, we should set forth the definition of domestic violence, which can be found in similar form in the federal and state FVO laws:

**“Victim of domestic violence” defined:** A “victim of domestic violence” is a person who is subjected to : (1) physical acts that resulted in or could result in injury; (2) sexual abuse; (3) being forced as caretaker relative of a dependent child to engage in nonconsensual sexual activities; (4) threats of sexual or physical abuse; (5) mental abuse; and/or (6) neglect. These acts must be committed by a “...by a family or household member.”<sup>36</sup> The State regulation provides an expansive definition of the term “family or household member,” and then broadens it further to include any other persons referenced in New York’s Domestic Violence Prevention Act. The Act’s description of family or household members goes well beyond the usual sense of these words.<sup>37</sup>

#### **(a) STEP 1 – PROVIDING INFORMATION**

All public assistance applicants, recipients at recertification and anyone indicating domestic violence are required to be notified of the availability of the FVO services, regardless of gender identity. Clients are notified of the FVO and its protections when they are given a form, “Domestic Violence Information for All Temporary Assistance Applicants,”<sup>38</sup> are given essentially the same information in a more compact “Palm Card” and receive a “Domestic Violence Screening Form.”<sup>39</sup>

They are advised that participation in this process is voluntary and that there is a right to confidentiality concerning the individual’s domestic violence situation. The one exception to the confidentiality rule arises if it is disclosed that there is child abuse, which must be reported to Child Protective Services. This form can also be given any time a client requests it.

#### **(b) STEP 2 – THE INITIAL SCREENING FOR DOMESTIC VIOLENCE**

In addition to briefly describing the FVO process and the individual’s rights within that process, the Screening Form asks whether any of a variety of examples of abusive behavior are applicable and lays out four basic options. Clients, by checking or not checking appropriate boxes on the form can:

- choose not to fill out the form,
- indicate that they have a domestic violence situation and would like to meet with a Domestic Violence Liaison (DVL, discussed further below),
- indicate that they have a domestic violence situation but do not want to meet with a DVL at this time, or
- state that none of these abusive situations apply, or that they choose not to answer these questions at this time.

Department of Social Services (DSS) intake staff are encouraged, but not required, to use the “Desk Reference for Domestic Violence Screening under the Family Violence Option”.<sup>40</sup> This guide aids the intake staff in explaining the FVO to a client. Where the initial Domestic

Violence Screening Form, statements made by the client, or observations by the DSS worker indicate that the client may have an abusive situation, the DSS worker is instructed to refer the client to the DVL. The client has the option not to accept this referral.

## **Discussion & Commentary**

***Initial experience at DSS:*** As with most aspects of the FVO process, it appears that clients who are victims of domestic violence have widely varying experiences in their initial contact with their local welfare agency. It can depend on their particular district, their center, their worker and, of course, the clients themselves. Clients often come to DSS because they have fled the home they shared with the abuser and may or may not have already been admitted to a shelter. In either case, they likely require public assistance to meet basic needs.<sup>41</sup>

A number of advocates believed that clients were having a reasonably satisfactory experience, if only because the advocates would otherwise have expected to hear many more complaints. However, there were reports of some DSS workers who were not so accommodating, and clients with limited English proficiency seemed more likely to have less positive experiences. A number of advocates spoke in generally favorable terms about most of the counties they served but observed that workers in at least one county that they covered were problematic. Some advocates observed that too often workers were not respectful of clients who claimed domestic violence. One interviewee with a statewide perspective felt that the front line DSS staff, the people who the client first sees upon entering the center, may not be adequately trained on domestic violence issues and the FVO.

***Providing information:*** The inadequacy of information provided to new clients arriving at DSS was raised frequently and was one of the most pervasive concerns expressed by interviewees. Many advocates believed that the FVO process and its potential value often are not fully explained, and that many clients do not understand the significance of indicating or failing to indicate domestic violence on the Screening Form.

A commonly raised challenge was posed by the fact that clients are provided with a number of documents relating to various aspects of public assistance benefits and eligibility, often including a great deal of information in relatively small type fonts. If clear verbal explanations are not provided (though required), then there is a likelihood that the client will not fully comprehend crucial details about the FVO. This includes difficulties they may have in understanding the significance of, for example, the child support cooperation and work requirements that are generally a part of public assistance eligibility. They also may not be adequately advised and assured regarding confidentiality, which may be instrumental in their choice to disclose.

Domestic violence victims who come to DSS may be under severe stress and coping with traumatic circumstances, so their capacity to fully digest important information may be challenged. They also may be anxious about the possibility of losing custody of their children to child welfare officials or of facing immigration problems. Interviewees from districts with

significant immigrant populations also noted that their clients with limited English proficiency often had difficulty understanding or communicating with DSS staff. To be fully absorbed, information should be given verbally as well as in writing, in the person's native language, with efforts made to ensure that the client understands.

Some interviewees, it should be noted, believed that their local DSS did a good job in conveying needed information, or at least that they had not heard from clients having problems. Others felt that many clients would have great difficulty if they did not have an advocate to advise them, to call ahead to the center, or to provide a letter for the client to bring to DSS. One advocate added that this was necessary because "...there was no one kind enough to explain...". Another felt that her local DSS did a great job "...except at the front door...".

***The first screening for domestic violence – “Checking the box”- referral to the DVL:*** It appears that clients who check the box stating that they have a DV situation are fairly uniformly put in contact with a DVL. This referral is often made even when the client checks the second box, in which the client acknowledges a problem but states that she does "... not want to meet with a DVL at this time..." (Note that the “Desk Reference for Domestic Violence Screening”, LDSS-4813, see footnote 40, instructs the worker to offer to make the referral even when this box has been checked.) While this first screening seems to operate fairly smoothly, there were some complaints that some workers were not very respectful to clients claiming domestic violence.

When the client indicates domestic violence but does not want to see a DVL, DSS workers will generally hand them a brochure and a hotline number and remind them that they can make their own appointment to see the DVL. Some DSS staff also will try to get a sense of whether the client is safe. If there is a concern, the worker will send them directly to a local domestic violence shelter with instructions to return to DSS the next day to pursue the welfare application.

There is significant variation in how the contact with the DVL is made, depending primarily on whether the DVL is located in the DSS center where the client has come to apply for public assistance. If the DVL works in the center, the worker may escort the client to the DVL's office, or the DVL may come to greet the client and bring her back to their office. Alternatively, the DVL may be employed by and located within a local DV program. In a county with more than one DSS center, the DVL may serve multiple locations and may not be present at the center on the day the client is there. In both of these situations, the common practice is for the worker to call the DVL, and once the connection is made, to bring the client to the phone to continue the process, including the credibility assessment, discussed below. Most interviewees considered in-person contact with the DVL to be preferable. Given the stressful circumstances the client faces, it is understandable that discussing the details of intimate partner violence over the phone with a stranger is not conducive to a sensitive and forthright conversation.

***When the client doesn't “check the box”:*** The FVO process is triggered when the client “checks the box” stating that they have a domestic violence problem or otherwise acknowledges the

problem. Thus, the client who is currently in an abusive situation but does not reveal that fact will not receive the services and referrals or the welfare rule waivers that are the core of the FVO assistance. Like the prior evaluations of the FVO, our interviews also indicated serious cause for concern. Interviewees were asked whether they believed that a significant number of victims of abuse do not disclose the domestic violence at DSS, and if so, why. Virtually all identified this as an important concern, and many – based on extensive experience working in this field – provided explanations:

- This is a personally painful subject and it may be particularly difficult to discuss it in this institutional setting;
- Many clients have had unpleasant, stressful interactions with DSS or other governmental agencies and there is a lack of the trust that may be essential for acknowledging a domestic violence problem;
- Despite the text on the screening form, many women, particularly from other cultures, may not fully comprehend the meaning of domestic violence or abuse, and may not recognize conduct like financial, verbal or emotional abuse as domestic violence;
- In this highly sensitive realm, clients with limited English or limited literacy will have additional difficulty in understanding what they are being asked to do, or the significance of divulging information about abuse;
- The DSS workers might not have adequately explained the importance and value of acknowledging DV. Too often there is no “...meaningful discussion of what this is all about...;”
- Clients fear that if they discuss the abuse they have experienced, custody of their children may be at risk;
- -Victims who are immigrants, particularly in light of current aggressive enforcement activities, may fear deportation or separation from their children, regardless of whether this fear is realistic. The abuser may have also threatened to report the client to immigration enforcement; and
- Domestic Violence victims may be afraid that the abuser will retaliate if they divulge this information and may have explicitly warned against disclosure.

It should be recognized that people we spoke with at OTDA questioned whether there was a significant problem concerning clients failing to report a domestic violence problem. They noted that there are multiple opportunities for the individual to raise the issue.

Many experts on domestic violence have concluded that significant numbers of clients who apply for public assistance deny that they have experienced abuse or don't respond to questions about domestic violence even when they in fact have a problem with abuse. There is no simple method to verify this conclusion. The closest we can come may be to compare our most reliable estimates of the general incidence of domestic violence among low-income women with the percentage of welfare applicants who make the claim.

Comparing New York data on claims of abuse with various data sources on the incidence of domestic violence among low-income women provides an admittedly imprecise insight, but certainly suggests that, indeed, many women do not report the abuse they currently or recently experienced.<sup>42</sup> The table below uses the most recent data that is available in New York for accepted welfare applications and claims of DV.

With regard to the other data point, the incidence of domestic violence among low-income women in the U.S., there is a vast range of estimates. One review of academic research found that between 8 and 33% of women receiving welfare experience some form of relationship violence each year.<sup>43</sup> A report by the General Accounting Office (now the Government Accountability Office) that looked at six studies found an even more striking range that from 15 to 56% of women receiving public assistance had experienced abuse within the previous 12 months. One of the studies in the GAO report described a statewide Massachusetts study in which 20% of women receiving welfare had experienced DV in the preceding 12 months.<sup>44</sup> Using these data points, we should expect that communities could expect to see at least 8% (at the lowest) and as much as 56% (at the highest) of applicants indicating domestic violence.

In the table below, we used data for New York State from the Office of Temporary and Disability Assistance (OTDA) for the period July 17 to June 18, 2018. We list the information for the entire state, and for New York City, and for seven additional counties that are roughly representative of urban, suburban and rural areas of the state. For each location, we measured the number of welfare applicants claiming domestic violence as a percentage of the total number of accepted public assistance applications during that period.<sup>45</sup>

Location	DV claims	Applications Accepted	DV claims as a % of accepted applications
NYS	12,836	311,652	4.1%
NYC	7,557	220,044	3.4%
Albany	32	3,363	0.9%
Erie	1,521	9,384	16%
Lewis	17	107	15.8%
Nassau	251	5,727	4%
Steuben	89	974	9.3%
Suffolk	572	13,788	4%
Westchester	110	3,898	2.8%

Notably there is large variation among counties. However, most telling is the statewide average--in just over 4% of all cases did an applicant make a domestic violence claim. Comparing this figure against the domestic violence estimates from studies cited above, New York's percentage of claims comes in at just half of even the lowest estimates.

***(c) STEP 3 –INTERFACING WITH DVLS, ASSESSING CREDIBILITY, AND GRANTING WAIVERS***

As discussed above, the DSS worker who initially sees the clients provides them with the Domestic Violence Screening Form. If the client checks one of the boxes indicating domestic

violence, or if other factors lead the worker to believe that there may be abuse, then the worker refers the person to a DVL.

The Domestic Violence Liaison's primary responsibilities are to assess the credibility of the individual's claim of domestic violence and, where these claims are found credible, to take further appropriate action.<sup>46</sup> A client's interview with the DVL seems to generally take place in person at the center but may be conducted over the phone if the DVL is not located in the center.

The DVL must have a BA degree or must have one year of experience as a caseworker or two years' experience in DV advocacy or counseling. They also must "...possess good communication, listening and assessment skills..."<sup>47</sup>

All new DVLs must complete a 3-day DVL training sponsored by the Office of Temporary and Disability Assistance (OTDA) under an agreement with the Office for the Prevention of Domestic Violence (OPDV), in collaboration with Rockefeller College, University of Albany.<sup>48</sup> It should be noted that OPDV staff offer trainings to other DSS staff around the state, but these are not mandatory. Local Departments of Social Services also offer in-house trainings but the frequency and subject matter are likely to vary widely.

The DVL positions also may be contracted out to approved programs serving domestic violence victims. These programs must ensure client safety and confidentiality, must maintain regular contact with the local social services district, and workers from the welfare agency and the contracted agency must train each other so that they can each "...optimally fulfill their obligations..." under this law.<sup>49</sup>

In addition to the assessment and other functions described below, DVLs also are expected to maintain relationships with DV service providers, DV coalitions and key court personnel, to coordinate activities with other social services district workers, and to collect and maintain data.<sup>50</sup>

The DVL's responsibilities include:

- Assessing the credibility of the applicant's claim of domestic violence,
- Assessing the individual's safety and need for services;
- Providing information to the individual about options for protection and other services, and about their rights and responsibilities with regard to obtaining waivers;
- Gathering information about the extent to which DV may be a barrier to the individual's ability to comply with public assistance requirements; and
- Assessing the need for waivers or partial waivers of welfare requirements, including the obligation to:
  - o Establish residency
  - o Cooperate with DSS in pursuing child support from the absent parent
  - o Engage in employment and training activities

- Receive TANF-funded public assistance for only a time-limited period
- Comply with alcohol and substance abuse treatment.<sup>51</sup>
- Another component of the DVLs' work is to "facilitate emergency planning" to assist clients in developing a safety plan if, for example, a rapid departure from the home becomes necessary.<sup>52</sup>

The DVL is encouraged by OTDA – but not required – to use the "Model Assessment Tool."<sup>53</sup> The tool includes questions to assist the DVL in determining:

- Whether the client's situation meets the legal definition of DV,
- Whether the client might have a document, such as an Order of Protection, to support the claim of domestic violence. Any one of the suggested documents may suffice. Furthermore, state regulations provide that, in the absence of any of these documents, the client's sworn statement "alleging the abuse" must be accepted as sufficient evidence,<sup>54</sup>
- Whether additional questions are necessary when the client is relying upon a sworn statement, and no other collateral contacts are available.
- Whether certain welfare requirements, such as engagement in work activities or pursuing child support cooperation might put the client and/or the children at risk and therefore, should be waived temporarily, and
- The appropriate length of the waiver.

Waivers of certain public assistance requirements are to be granted when there is good cause to believe that compliance with these requirements might make it more difficult for the person to escape abuse or would put her or other household members (such as children) at risk. Initial waivers in New York must be granted for a minimum of four months with reassessments no less than every six months. However, waivers may be extended, modified or terminated at any time, including by the client.

The FVO waivers are described under federal law in terms of two primary objectives: (1) to ensure that the safety of victims and their households are not compromised; and (2) to promote work and progress towards self-sufficiency.<sup>55</sup> However, there is some tension between these objectives. Welfare requirements intended to promote self-sufficiency would be self-defeating if compliance with work-related assignments might place a domestic violence victim and her children at risk of harm.

In addition to the granting of waivers, the DVL is responsible for working with the client to develop a services plan<sup>56</sup> intended to safely lead to self-sufficiency. The DVL may, but is not required, to use a "Model Services Plan". Once filled out, the plan indicates the type and duration of waivers that have been granted to the client and the types of referrals that may be made, such as domestic violence services, legal assistance, child care and training. It also reviews what assistance might be needed for the client to go to work safely and what other supports might be needed to "...achieve safety and self-sufficiency." Finally, the plan sets forth referrals that have been made, other resources that might be available to assist the client and it reminds the client that participation in the Plan is voluntary.

## **Discussion and Commentary**

***The DVL's qualifications:*** As discussed above, state regulations set forth limited criteria for the DVL position. They consist basically of a certain level of education or a minimum number of years of relevant experience; and the candidate must "...possess good communication, listening and assessment skills and the ability to work positively in a team setting." The modest number of responses received in interviews suggested a wide array of approaches to employing DVLs. In DSS offices they presumably adhered to state rules. However, in counties where the DVL positions were contracted out, those providers used a variety of criteria. Some indicated that they used the state criteria, while others used the more rigorous standards of their nonprofit agency, or tended not to carefully follow the regulations, but rather emphasized character and preferred candidates from the community. One agency indicated that they would like to hire candidates with a social work degree, but that their ability to do so was constrained by funding limitations. In some locations, the ability to speak Spanish is a requirement. At least two agencies stated that they applied no set criteria.

The 3-day DVL trainings were uniformly described as excellent. It seems that districts and nonprofit providers vary considerably in the frequency and the nature of other training – in terms of both the content of local training and the staff to be trained.

***DVLs in general:*** Our interviews reflected an almost uniformly positive assessment of the DVLs and the work they do. This seemed to be the case whether the DVLs are county employees or work with a non-profit entity under contract with the county. A number of commenters felt the DVLs were, to quote one advocate, "...engaged and concerned..." A few advocates in counties where the DVLs were county employees drew a distinction between the DVLs and regular DSS staff. Some of the observations tended to see the DVLs as working with a passion for something they believed in, a trait they indicated was less evident in the rest of the DSS staff.

There were a few advocates who did not have good experiences with their local DVLs. In some cases, they felt that the DVLs were overly skeptical of clients' truthfulness regarding the claim of abuse. Also, one interviewee suggested that DVL's skill levels and capacity to make appropriate findings as to credibility varied substantially around the state. However, there was a strong sentiment among many interviewees that the DVLs did good work and showed true concern for the safety of the clients.

***Evaluating the immediate need for shelter:*** Determining whether a DV victim needs immediate shelter is not an explicit mandate of the FVO. However, the DVL is responsible for "assessing the safety of the victim and the victim's dependents and their need for services and support..."<sup>57</sup> The FVO process and the client's application for public assistance often intersect closely with the client's housing needs, so our interviews generally included questions about locating domestic violence shelter beds.

It is often the case that clients have fled their home and have gone directly to a local non-profit DV program or to the police. Many of these non-profits operate a non-residential program, as

well as a residential safe shelter where the individual can stay. If there are no available beds, then they can help the client find a safe space elsewhere. Thus, the client may have been afforded space in a domestic violence shelter by the time they arrive at DSS. Indeed, the shelter is likely to have sent the client to DSS because under current rules in place at the time of this project, all domestic violence shelter program residents are required to apply (and qualify) for public assistance benefits to have the cost of their DV shelter stay paid for by the local district.<sup>58</sup>

A great deal of effort is often required to find shelter when the client doesn't come to DSS with shelter already in place. In some cases, clients were sent to DSS housing staff or other DSS staff to help them find a domestic violence shelter. In other districts, the DVLs were involved, and in other instances, DSS relied largely on the non-profit providers. But the task often seemed similar: Keep calling until an available bed is located. The client may ultimately be placed in a shelter nearby, in a nearby county, or even another state. Problems might arise if the client expressed a need to remain in the county, perhaps to stay close to family, schools or key resources. It was also a challenge where other clients expressed a need, as a matter of safety, to escape the county. An advocate in western New York stated that clients were sometimes told they had to prove their need to be placed in another county, most likely an impossible task. If, after an extensive search, no domestic violence beds can be located, some districts had to consider the client's safety if placed in a regular, non-DV emergency shelter or a motel. The inadequate supply of beds in safe places clearly emerged as a serious challenge.<sup>59</sup>

To some extent, finding temporary space in a domestic violence shelter is only a preliminary step – eventually, the client will need to begin the search, sometimes daunting, sometimes overwhelming, to find more long-term housing. This is discussed briefly, below.

**Assistance with safety plan:** DVL's also are required, when necessary, to assist the client in developing a safety plan.<sup>60</sup> Virtually all DVL's, DSS staff and non-profit providers aided their clients in creating a safety plan as a routine component of their work. The assistance is likely to include written materials, a discussion of steps that might be taken to maximize safety, and if the DVL is not with a domestic violence agency, then contact information for an agency and other emergency resources. The timing of the safety plan discussion varies. Some interviewees felt that if the initial contact is, for instance, on the phone, this may not be the optimal time to have this conversation, and another time and place is arranged. But it was apparent that the safety plan was always a critical topic for review as soon as feasible.

**The DVL's assessment of credibility, the granting of waivers:** The assessment of the client's credibility in her claim of abuse is a critical step in the FVO process: it will establish or deny her right to referrals for counseling and other services, and for waivers of certain welfare requirements. As one advocate observed, an erroneous decision that a client was not credible might ultimately result in an inability to have DSS pay for the domestic violence shelter, and, in some cases, with no recourse but to return home with the abuser.

**Tools used to assess credibility:** The state has circulated a recommended, not mandatory,

screening tool known as the Model Assessment Tool. I consulted with an expert in domestic violence screening methods and tools, and she felt – with some suggestions for improvement – that the Model Assessment is reasonably well designed to capture the necessary information.<sup>61</sup> There is no scoring method for the Model Assessment, so to some degree its purpose is to provide a guide for the DVLs, and to ensure that the essential territory is covered. There appears to be some disagreement about whether districts, even individual DVLs, should be free to choose the assessment tool they will use, if any, or whether greater uniformity is preferable. [This question is discussed further in Appendix 2.]

While use of the Model Assessment is encouraged but not required, it appears that districts do, to a significant extent, use it or something very similar for their credibility determinations. The district would need state approval to use an alternative tool, so given the quality of the Model tool, it might be most practical to use the readily available, approved instrument. However, our research indicated that usage did vary: in some districts it seemed to be very closely adhered to; elsewhere it might be used as general guidance. Some DVLs with long experience either as a DVL or in related work, might feel that they have the skill to consider the client’s responses and come to an accurate conclusion about their credibility. Some DVLs who worked for a non-profit agency were mindful of the Model Assessment but felt that their in-house screening tool, such as the screen used for their hotline calls, was preferable.

***The finding of credibility:*** When DVLs and others familiar with the process were asked about their approach to making the credibility determination, the responses again varied considerably. There seemed to be a general inclination to accept the client’s description of the situation. One interviewee said that her non-profit was “overwhelmingly likely” to find the client credible, another said her agency’s informal motto was “begin by believing.” She was concerned that “...there’s always a movement to discredit victims...” and she didn’t want to be part of that. Another DVL responded that she did not really use the form, and generally went “by my gut,” judging the client’s manner of speaking of the abuser, and her apparent level of fear. However, when in doubt, she indicated she would find the client credible. Finally, two interviewees stated that recent DVL training provided by the State encouraged DVLs, as a rule, to grant the first waiver request. The risks inherent in an erroneous decision about credibility certainly argues in favor of this approach. A more rigorous assessment can be undertaken if, as the expiration of the initial waiver nears, the client asks for an extension.<sup>62</sup>

On the other hand, some respondents acknowledged that they were from time to time skeptical of clients’ claims. One DVL estimated that she found clients not credible as much as half of the time. Another pointed out that a finding of domestic violence improved the victim’s chances of getting into subsidized housing, a powerful incentive to make the domestic violence claim. As was the case with other parts of the FVO process, a few advocates singled out one problematic county where DVLs were particularly likely to find clients not credible. Also, OTDA from time to time reminds DVLs that the need for a waiver must relate to domestic violence: A person with a disability may be entitled to a work rules exemption, but not an FVO waiver. The general thrust of opinion about DVLs’ credibility findings was quite favorable to their work.

**Documentation – the sworn statement:** The Model Assessment includes a number of questions to determine whether the client might have documentation of domestic violence. Most commonly, this might include an order of protection or a police report. If the client has no such documentation, then she will be asked if she would sign a sworn statement regarding her situation. This approach reflects a preference for documentation, while recognizing that this might cause difficulties for the client and that the law allows for reliance upon a sworn statement if no other evidence of abuse is available.

**Findings that the client is not credible:** Notwithstanding the DVLs’ inclination to find clients credible, interviews and available data suggest that clients are found not credible with surprising frequency. Of course, in some percentage of the cases, the client may not have a domestic violence concern and the DVL may pick up on the cues. However, DVLs and advocates I spoke with suggested a more nuanced understanding of the interaction:

- Certainly, there may be some DVL determinations that are simply incorrect, particularly with the number of DVLs, limited though it may be, who tend to be skeptical of client claims of abuse.
- There may well be some clients who exaggerate their circumstances because it will help them to get subsidized housing. Although the stretching of truth is problematic, the crisis in affordable housing might understandably lead a person to feel compelled to do what’s necessary to secure a safe, decent place to live;
- A client may actually be telling the truth about her experience with abuse, but not provide accurate details out of fear of retribution by the abuser; and
- Clients from different cultures or with limited English may not fully comprehend the questions they are being asked, and their answers may, as a result, seem evasive.

**The data on credibility findings:** As mentioned above, the data on credibility findings by DVLs appears to demonstrate that clients are found not credible with surprising frequency. The following chart indicates – for the state as a whole and for eight social services districts – the number of people claiming domestic violence, the number of claims found credible, and the resulting percentage of people found credible. This uses data from July 2017 through June 2018, the latest available data.<sup>63</sup>

Location	# claiming DV	# found credible	% found credible
NYS	12,836	7,697	59.9%
NYC	7,557	4,414	58.4%
Albany	32	28	81.5%
Erie	1,521	926	60.8%
Lewis	17	9	52.9%
Nassau	251	214	85.2%
Steuben	89	22	24.7%
Suffolk	572	303	52.9%
Westchester <sup>64</sup>	110	109	99%

The statewide percentage of domestic violence claims found credible, just shy of 60%, is consistent over an 11-year period dating back to 2007-08. It is not feasible to scientifically assess the accuracy of the “not credible” findings, but a number of experts were skeptical that four of every 10 domestic violence claims are not truthful. It should be pointed out that the chart refers to the first variable as “number claiming DV,” but the actual heading in the OTDA report is “Persons Indicating Current Danger.” This is significant because one suggested explanation for the data anomaly was that people might initially claim a DV issue and then not follow up or might have misunderstood and might have been referring to violence in the past, but not a current risk. At a minimum, this data warrants further analysis, including perhaps an inquiry into the kinds of data that might most accurately measure the efficacy of the FVO. The stakes are high – those found not credible, like those who fail to make a domestic violence claim in the first place, will be denied services and waivers, which may, in turn, leave them more vulnerable to harm.

***The granting of waivers:*** When clients are found credible and are granted waivers, the requirements most commonly waived – by a large margin – are (1) the obligation to cooperate with DSS in pursuing child support from the absent parent, and (2) work assignments. It appears that these are the requirements that, if undertaken, would most frequently expose the client to some form of danger. In New York, from July 2017 through June 2018, 17,777 waivers were granted, of which 10,879 were waivers of the child support obligation and 6,176 were waivers of the work requirements. Thus, 96% of all waivers were given in these two categories.<sup>65</sup>

Interviews indicated that some DVLs would, upon a finding of credibility, grant the client all of the available waivers. Others were more selective and customized, given the dominance of just two waiver categories. Most waivers were given for the prescribed range of four to six months. DVLs may mail the person a notification that the waiver period is coming to an end, to give the person an opportunity to request a reassessment and extension. However, this notice can be mailed only if the client has assured the DVL that mail can be sent safely to a particular address. If a safe address cannot be provided, the client must make sure to get to DSS on their own before the waiver period expires.

Interviewees seemed to feel that the waiver process worked adequately, though some expressed the view that clients had better outcomes if they had the assistance of an advocate. One advocate, who spends considerable time in Family Court, said that she saw too many women in court on child support cases who clearly should have had a waiver of the child support requirement. Indeed, despite the generally favorable view of the DVLs, there were anecdotal reports of clients inappropriately sent to court or to work assignments, and thereby placed in potentially vulnerable positions.

#### **4. IMMIGRANTS AND OTHER MARGINALIZED COMMUNITIES AND THE FVO PROCESS**

In virtually every facet of the FVO, indeed, in every stage of the welfare application progress, immigrants will face unique challenges. The added burdens confronting these groups were recounted repeatedly by the people who were interviewed.

The obstacles and challenges navigating welfare systems may be all the more intimidating if the victim has unsettled immigration status, limited ability to speak or read English, and perhaps also limited literacy in her own language. Strides have been made in improving language access in Departments of Social Services. Many official documents and forms are available in Spanish and often in other languages. It appeared from interviews that interpretation services, such as Language Line, are well known to and used as needed by local Departments of Social Services. However, I also was frequently told of instances in which clients did not understand documents they were given or had difficulty communicating with DSS workers, who at times seemed unsympathetic to their communication and language barriers.

In addition to language issues, advocates in areas with significant immigrant or refugee populations often noted that their clients' difficulties were exacerbated by the need to communicate with DSS workers across sometimes dramatically different cultural norms. The most commonly observed manifestation of this cultural divide was found in the understanding of the term "domestic violence." For example, victims from certain countries understood domestic violence to be limited to direct physical violence, rather than considering the many tools of coercive control and abuse that also occur within this context such as verbal, sexual, financial or psychological abuse. We should note that this is also a common misunderstanding among non-immigrant victims as well.

The challenges for immigrant victims navigating the welfare system and the FVO process are daunting. It is therefore critical for DSS workers, providers and advocates to achieve a basic understanding of these challenges, the ways in which they bear similarities to the experience of domestic violence victims in general, and the extraordinary ways in which they are intensified.<sup>66</sup>

Similarly, workers and advocate should be fully trained to recognize and address the unique barriers and challenges faced by other marginalized communities of victims, such as LGBTQ, people with disabilities, people of color, and more. It is critical that those most at risk fully understand their rights under the FVO and are provided with a culturally competent, respectful, safe and supportive setting for difficult discussions and decisions.

Members of these communities are more likely to live in poverty than the general population. The overall poverty rate in the U.S. in 2017 was 12.3%. But the poverty rate among the African American population was 21.2%, among Latinx it was 18.3%, and for people with disabilities, the poverty rate was 24.9%.<sup>67</sup> Poverty statistics in the LGBTQ community are not as readily available, but we do know that "...LGBT people and same-sex/gender couples are more

vulnerable to conditions of poverty as compared to heterosexual people and couples.”<sup>68</sup> The difference is more striking among certain groups; for example, 29% of bisexual women live in poverty, compared with 21% of heterosexual women,<sup>69</sup> and “transgender adults...were nearly four times more likely to have a household income of less than \$10,000 per year compared to the general population.”<sup>70</sup>

As is the case with the general population, it appears that intimate partner violence within these marginalized communities occurs at least as frequently and with some groups more frequently among people living in poverty. But these populations face burdens and barriers in ways that are not experienced among the population at large. They are manifest in “...job discrimination, housing discrimination, police violence, and other forms of violence and discrimination which makes [these groups] more vulnerable to experiencing violence in their relationships and creates extensive barriers to accessing support...”<sup>71</sup>

## **5. THE NEED FOR ADVOCATES**

Individuals and families coming to the Department of Social Services to apply for public assistance are usually arriving in a state of crisis. The multiple tasks that must be performed to establish eligibility, the very modest level of the benefit and the stigma associated with the receipt of welfare tend to discourage all but those in urgent need. Those who arrive at the doors of DSS are living in poverty, may have a limited education, limited literacy, limited English, and mental health or physical disabilities. It should be acknowledged that many of these people will successfully complete the application process and relatively smoothly start receiving benefits. However, many would not be able to negotiate the system without the aid of an advocate. Add to this setting the possibility that the applicant is struggling with a domestic violence crisis, and the need for an advocate may be acute.

Conversations with DVLs and other staff at domestic violence organizations suggested that DVLs have limited time and capacity to assist clients with the application process. But there may be other staff at these or at other community-based agencies that can help. One domestic violence agency administrator stated that her agency was only able to advocate on behalf of their own shelter residents, but that their residential case manager spent as much as half of her time on benefits assistance and advocacy. Staffers at two other DV agencies indicated that their advocates will take clients to DSS, help to usher them through the application process and, as needed, provide metro cards, gas cards, pharmacy cards and access to food pantry services. However, they are, again, only able to serve residents in their housing facilities. A DVL with an agency under contract with the local DSS reported that they used to do much more benefits advocacy on behalf of clients but had to sharply reduce that work because it was so time consuming.

Many of the people interviewed asserted the absolute necessity for advocates, often long before the question was asked. They emphasized the particular need in cases of clients with

language barriers, mental health disabilities, cultural differences, and those experiencing the trauma of abuse. Some offered a more nuanced approach, noting that the need for an advocate might depend on the clients' personal capacities and limitations and the severity of their difficulties.

As might be expected, interviewees offered a mixed report on the work of DSS staff. The culture of DSS centers, the adequacy of staffing, the quality of training, caseloads and time pressures, and the individual worker's approach to clients – including freedom from bias – were critical determinants of the need for advocacy from the outside.

## **6. RECOMMENDATIONS**

In this assessment of implementation of the Family Violence Option in New York State, we find a system that seems to generally achieve its purpose. That is, the system identifies individuals who claim to have a domestic violence problem, evaluates the credibility of those claims, and, where indicated, refers them for services and waives welfare requirements that might put them at risk. Undoubtedly, many clients navigate the system and receive the intended benefits of the FVO. That said, we also believe that there are many ways that the system could be improved to better serve victims of domestic violence. Some of our recommendations propose changes within the FVO system itself. Others lie somewhat outside the strict confines of the FVO or call for much broader institutional changes.

### ***(a) RECOMMENDATIONS DIRECTLY RELATED TO THE FVO PROCESS***

#### **Notice – Providing information to individuals**

1. There should generally be more education provided to staff and clients about domestic violence, how it is defined, its prevalence and steps that can be taken to deal with a crisis situation.
2. Make sure that adequate, accessible information is provided, verbally and in writing at multiple times in the FVO process, advising clients of the FVO and its value to the client. Basic FVO information should also be set forth on large posters, placed in every welfare office waiting room.
3. Clients should receive clear and honest information to directly address common fears about losing custody of their children or the impact of their immigration status.
4. There should be enhanced outreach to domestic violence shelters, social services agencies, advocates and the community about the FVO, so that clients and others are aware of the program from the start.

#### **Training of DSS Intake and Screening staff**

The recommendations most frequently raised in readings and discussions with stakeholders involved training of staff, including the Domestic Violence Liaisons and all DSS staff who might

interact with domestic violence victims, particularly those who interact with and assist victims when they first come into DSS offices. Suggestions for what this training would involve should include:

1. Training on domestic violence and on the Family Violence Option, including the basic legal provisions, and the steps in the process.
2. Cross training between DSS staff and domestic violence, addressing each other's respective knowledge, experience and services. While this cross training is already required under the state's FVO regulations for districts in which the DVL function is contracted out, it would be equally valuable in districts where the DVLs are employees of DSS.<sup>72</sup>
3. In light of the concern that too many domestic violence victims do not disclose their abuse history to DSS, training on improving communication with domestic violence victims. Components of such training would include screening practices that create a sense of safety and trust, and "support the disclosure of abuse...,"<sup>73</sup> and training in cultural sensitivity. To that end, training should focus strongly on trauma-informed interviewing, particularly for staff that make the initial inquiry about the presence of domestic violence. Such training should be mandatory for appropriate staff, with periodic sessions as a refresher and for updates.
4. Assisting and supporting victims in marginalized and diverse communities should be given particular emphasis and attention, especially as the barriers and obstacles to escaping abuse are much higher for these individuals.
5. While most counties appear to be aware of obligations regarding clients with limited English proficiency or limited literacy, numerous advocates reported that their clients with those limitations often struggled to understand and be understood. DSS staff must be trained on and reminded of their obligation to fully serve these clients, and to make use of interpretation and translation services where needed.
6. We recommend that OTDA undertake an internal review of the FVO system to assess the need for additional trainings, who should receive the training, and whether new procedures need to be developed to ensure that crucial information is properly conveyed.

### **Domestic Violence Liaison Duties (Screening, Credibility Determinations, Waivers)**

1. The significant disparity in credibility determinations between counties is alarming, as is the frequency statewide with which claims of domestic violence are found not credible. These issues have been raised with calls for action over the last two decades, with no evidence of progress. While we heard favorable reports about the work of the DVLs, we are concerned about the perhaps overly broad discretion exercised in making credibility findings. It must be recognized that the high level of credibility denials can have serious harmful impacts on domestic violence victims. We recommend that:
  - a. There should be greater uniformity in how these assessments are conducted, including standardized procedures regarding the assessment tool and

decision-making process. [This need for uniformity is discussed further in Appendix 2].

- b. OTDA training should make emphatically clear that when a DVL has any doubts in a given assessment, waivers must be granted.
  - c. OTDA must exercise more rigorous oversight regarding the FVO process, and should, if necessary, intervene when counties fail to meet baseline benchmarks (for example, that at least 60% of respondents claiming domestic violence are found credible). When a county persistently fails to meet a reasonable standard for credibility findings, OTDA should impose sanctions if the problem is not remedied.
2. Districts that have successfully implemented the FVO with robust credibility determinations and waivers should be identified and studied, and their best practices made available widely, particularly to those counties that need more assistance in improving their own services.
  3. Whenever possible, the DVL's meeting(s) with the individual should be conducted in person, and not by telephone. This deeply personal and often painful conversation is best undertaken face to face.
  4. DVLs should have access to emergency funds that can be provided immediately to clients, at their discretion, to meet urgent needs. These might include, for example, modest amounts for transportation, clothing or to acquire a phone. We believe that such funds could be provided under public assistance regulations authorizing payments for essential furnishing, clothing and meals, and for meeting other emergency needs.<sup>74</sup>
  5. Regarding these crucial stages of the FVO process, OTDA should undertake a more rigorous effort to collect and publicize data about the program. The data currently collected appears to very limited and it is quite difficult, if not impossible, to draw meaningful conclusions from it. To cite two examples, (1) the number of waivers granted appears to count every waiver given, so one person might receive five waivers; it is not clear that the number of individual clients receiving waivers can actually be determined. (2) We heard at least two explanations of the meaning of the crucial statistic about client claims of danger, making those figures subject to varying interpretations.

### **DV providers and DSS**

Most of the recommendations regarding non-profits doing domestic violence advocacy work focused on the relationship between the non-profits and the local DSS.

1. Collaborative, ongoing working relationships between advocates and DSS staff can help address barriers to benefits, improve processes, and establish bonds that can facilitate individual case assistance and broader policy and practice changes. To the extent that such relationships do not already exist, we recommend that steps be taken to foster them.
2. To the extent resources permit, it would be beneficial for DSS to outstation staff with a local domestic violence advocacy group, and vice-versa.

3. Some advocates felt that a related benefit is achieved when domestic violence providers build a coalition (coordinated community response) to meet periodically with DSS to discuss concerns. At least one commenter felt that local DSS operations, including the FVO process, seemed most effective in counties with an active domestic violence coalition, especially one in which DSS participates.
4. In light of our findings concerning the need for advocates to assist clients in the FVO process, we recommend that funding be provided, from state and local sources to enable domestic violence and other advocacy organizations to hire staff to better meet the need.

## ***(b) RECOMMENDATIONS BEYOND THE SCOPE OF THE FVO***

### **Housing**

It is beyond our capacity here to offer solutions to the housing crisis, but these issues are critical to the short and long-term well-being of domestic violence victims. [In light of the central importance of stable housing, there is a further discussion of the issue in Appendix 3.]

1. It is essential that domestic violence victims (and people living in poverty general) gain access to long-term housing that is safe, in decent condition, and affordable.<sup>75</sup> All levels of government must work to increase the supply of such housing by continuing to invest in developing affordable housing. Similarly, we recommend supporting the development of more transitional housing projects operated by domestic violence programs statewide.
2. The rental portion of the public assistance grant must be substantially increased. See Welfare Rules, below.
3. In many regions of the state, there is a severe shortage of beds in domestic violence shelters and this can result in waiting lists, alternative non-shelter emergency placements, or disruptive sheltering out of county. Additionally, finding shelter when beds are full in county can be extremely time-consuming for DVLs or other workers. Increasing access to shelter remains a critical need.
4. There is also a serious need for more Rapid Rehousing units, housing that helps to fill the gap between emergency shelter and long-term housing.

### **Welfare rules**

The starkly low level of the grant ensures a day to day struggle to get by, at the expense of a stable home for low-income New Yorkers. This is even more problematic for families also struggling with dynamics of domestic violence that include financial abuse and other coercive control tactics specifically intended to undermine the victim's economic well-being.

1. Most significantly, the rent allowance portion of the grant must be dramatically increased. At the time of this writing, the State Legislature has before it, and should adopt, the Home Stability Support initiative, which would significantly increase the ability of public assistance households to pay the rent.<sup>76</sup>

2. The non-housing portion of the public assistance grant also bears little relation to the cost of meeting a household's most basic needs. New York must look at providing a periodic cost of living adjustment to ensure that, at a minimum, the inadequacy of the grant does not continue to grow with each year.
3. The welfare application process should be streamlined so that it is less intimidating and confusing. Applicants should not be required to produce documents that are not essential. DSS staff must be reminded of their legally mandated obligation to assist applicants who have tried but not succeeded in complying with all application requirements.<sup>77</sup> They should also be reminded that they cannot compel a domestic violence victim to contact their abuser as a condition for receiving benefits or services.<sup>78</sup>
4. Those seeking a place in a domestic violence shelter should not have to apply for welfare, nor should they have to contribute to shelter costs when they have modest job earnings. These rules have been found to violate federal law, and it is expected that they will be eliminated in this legislative session.
5. To enable recipients in general, and specifically DV victims to accumulate a modest amount of assets, welfare resource limits should be eliminated or significantly raised.<sup>79</sup>

## ENDNOTES

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<sup>1</sup> This report tries as much as possible to be neutral as to gender. But much of the research has focused on the experiences of women, and that is at times reflected in the report.

<sup>2</sup> There are somewhat differing but comparable figures in *Shortchanging Survivors: The FVO Option for TANF benefits - A Report by the DV Program of the National Law Center on Homelessness & Poverty*, December 2009; Tolman, R. M. & Raphael J., *A Review of Research on Welfare and Domestic Violence*, Journal of Social Work, 56(4), 2000; Stephanie Holcomb, et al, *Implementation of the Family Violence Option 20 Years Later: A Review of State Welfare Rules for Domestic Violence Survivors*, Journal of Policy Practice, 2017.

<sup>3</sup> Shaina Goodman, *The Difference Between Surviving and Not Surviving: Public Benefits Programs and Domestic and Sexual Violence Victims' Economic Security*, A Joint Report of the National Resource Center on Domestic Violence, The Center on Poverty and Inequality, January 2018.

<sup>4</sup> *Status Report on Hunger and Homelessness*, U.S. Conference of Mayors, 2012.

<sup>5</sup> The laws governing PRWORA and the creation of TANF can be found starting at 42 U.S. Code §601; the regulations begin at 45 Code of Fed. Regs. §260.

<sup>6</sup> Almost every state has either adopted the FVO or has enacted a comparable state version.

<sup>7</sup> 42 U.S. Code §602(a)(7). The federal law includes an additional waiver for family cap rules, but New York does not have family caps, so it is not relevant.

<sup>8</sup> See Shaina Goodman, *The Difference Between Surviving and Not Surviving: Public Benefits Programs and Domestic and Sexual Violence Victims' Economic Security*, A Joint Report of the National Resource Center on Domestic Violence and The Georgetown Center on Poverty and Inequality, January 2018.

<sup>9</sup> Goodman's research relies primarily on surveys of advocates who represent victims of domestic violence.

<sup>10</sup> This rule has been found unlawful by the Federal government and is likely to be eliminated in the current legislative session.

<sup>11</sup> *The Cost of Leaving: Reforming the Family Violence Option (FVO) under Temporary Assistance to Needy Families (TANF) to Aid Successful Exit from Abusive Relationships*, capstone paper by Rebecca M. Varghese, Washington & Lee University Law School, 2016; Timothy Casey, Jill Davies, Annika Gifford, and Anne Menard, *Not Enough: What TANF offers Family Violence Victims*, A joint report of Legal Momentum and the National Resource Center on Domestic Violence, March 2010; *Shortchanging Survivors: The FVO Option for TANF benefits - A Report by the DV Program of the National Law Center on Homelessness & Poverty*, December 2009.

<sup>12</sup> *The Cost of Leaving...*

<sup>13</sup> See, for example, *Shortchanging Survivors...*

<sup>14</sup> *The Cost of Leaving...; Not Enough....*

<sup>15</sup> See, for example, Stephanie Holcomb, et al, *Implementation of the Family Violence Option 20 Years Later: A Review of State Welfare Rules for Domestic Violence Survivors*, Journal of Policy Practice, 16:4, 2017.

<sup>16</sup> See, for example, *The Cost of Leaving...; Not Enough....*

<sup>17</sup> *Shortchanging Survivors...*

<sup>18</sup> *Not Enough...*

<sup>19</sup> *Implementation of the Family Violence Option...*

<sup>20</sup> Reported in *Shortchanging Survivors*.

<sup>21</sup> *The Cost of Leaving...; see also the 20 Years Later... report.*

<sup>22</sup> *Examining the Impact of the Family Violence Option on Women's Efforts to Leave Welfare*, Andrea Hetling, Catherine E. Born, University of Maryland, Baltimore, Research on Social Work Practice, Volume 15 Issue 3, May 2005.

<sup>23</sup> Domestic Violence: Prevalence and Implications for Employment Among Welfare Recipients, GAO/HEHS-99-12, General Accounting Office, 1998.

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- <sup>24</sup> Jane Kogan, *The Failure of the Wellstone-Murray Family Violence Option to Provide Meaningful Assistance to Survivors of Domestic Violence*, Columbia Social Work Review, 2006.
- <sup>25</sup> Taryn Linhorst, Marcia Meyers, Erin Casey, *Screening for Domestic Violence in Public Welfare Offices: An Analysis of Case Manager and Client Interactions*, Sage Journals, Volume 14, pp.5-28, January, 2008.
- <sup>26</sup> *Empire Justice Center Testimony on New York State's TANF Plan, 2009 – 2011*, November 14, 2008. See Amy Schwartz's testimony on the Family Violence Option.
- <sup>27</sup> *Shortchanging Survivors...; Empire Justice Center Testimony...; Implementation of the FVO...; Domestic Violence: Prevalence and Implications (GAO)*.
- <sup>28</sup> Study cited in *Shortchanging Survivors...*
- <sup>29</sup> *Empire Justice Center Testimony...*
- <sup>30</sup> *Shortchanging Survivors...*
- <sup>31</sup> *Not Enough...*
- <sup>32</sup> *Not Enough...*
- <sup>33</sup> *Empire Justice Center Testimony...*
- <sup>34</sup> *Shortchanging Survivors...*
- <sup>35</sup> See Social Services Law 349-a; 18 NYCRR 351.2(l).
- <sup>36</sup> 18 NYCRR 351.2(l)(1)(i).
- <sup>37</sup> Social Services Law 459-A(2).
- <sup>38</sup> This form is LDSS-4905, "Domestic Violence Information for All Temporary Assistance Applicants," revised 2008, was formerly known as the "Universal Notification Handout." It can be found at <http://otda.ny.gov/policy/directives/2007/INF/07-INF-09-LDSS-4905-DV-Information-for-TA-Applicants-Attachment-1.pdf>.
- <sup>39</sup> LDSS-4583, "Domestic Violence Screening Form," <http://otda.ny.gov/policy/directives/2008/INF/08-INF-02-Attachment.pdf>.
- <sup>40</sup> LDSS-4813, "Desk Reference For Domestic Violence Screening Under The Family Violence Option," [http://otda.ny.gov/policy/directives/2003/ADM/03\\_ADM-02-4813.pdf](http://otda.ny.gov/policy/directives/2003/ADM/03_ADM-02-4813.pdf).
- <sup>41</sup> At the time of this writing, women seeking space in a DV shelter are required to apply for welfare, since it is DSS that will pay the shelter cost. However, this policy has been found to violate federal law and is likely to be eliminated in the near future.
- <sup>42</sup> As noted, the available data has flaws that may affect its accuracy. For example, we could not find data that is broken down by gender, so we used data for all adults. We also used data only for accepted applications, so that clients who made a domestic violence claim that was or was not found credible but later had their applications rejected, might not be counted in the final tally. It is, however, our belief that despite the shortcomings of the data, the figures we have used provide a reasonable reference point for estimating the reporting of or failure to report domestic violence.
- <sup>43</sup> Tolman R, Raphael J. *A review of research on welfare and domestic violence*, Journal of Social Issues, Volume 56 2000.
- <sup>44</sup> *Domestic Violence Prevalence and Implications for Employment Among Welfare Recipients*, GHO/HEHS-99-12, General Accounting Office, 1998.
- <sup>45</sup> *2018 Statistical Report on the Operations of New York State Public Assistance Programs*, OTDA Bureau of Data Management and Analysis.
- <sup>46</sup> The responsibilities and qualifications of the DVL can found at 18 NYCRR 351.2(l)(2).
- <sup>47</sup> 18 NYCRR 351.2(ii)(c).
- <sup>48</sup> The Office for the Prevention of Domestic Violence is an executive level state agency addressing domestic violence issues. They focus on advising the governor and the legislature on domestic violence policies and practices in New York, train professionals "...about the intersection of domestic violence in their daily practice...," and serve as a resource, with published materials and by staging regular public awareness campaigns. This information is taken from the OPDV website, <https://opdv.ny.gov/>.
- <sup>49</sup> 18 NYCRR §351.2(l)(2)(iii)(d).
- <sup>50</sup> 18 NYCRR §351.2(l)(2)(i)(h).

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<sup>51</sup> 18 NYCRR §351.2(l)(7). This list differs slightly from elsewhere in the report, leaving out, for example, the TANF time limits.

<sup>52</sup> See, for example, 98-ADM-3.

<sup>53</sup> In addition to the Model Assessment Tool, various checklists and forms can assist DVLs in making their assessment of credibility: LDSS 4872, the “Domestic Violence Assessment Checklist,” <http://otda.ny.gov/policy/directives/2006/INF/4872.pdf>; LDSS 4873, the “Domestic Violence Reassessment Checklist,” <http://otda.ny.gov/policy/directives/2006/INF/4873.pdf>; and 03 ADM-05 “Notice Regarding Child Support Requirements for Victims of Domestic Violence,” <http://otda.ny.gov/policy/directives/2006/INF/03-ADM-05-attach.pdf>.

<sup>54</sup> 18 NYCRR 351.2(l)(5)(ii). Neither the statute nor the regulations are as clear as might be preferred; they both say that the evidence of domestic violence “...shall in the absence of other sufficient evidence include, at a minimum, a sworn statement by the individual alleging such abuse.” This language would have little meaning unless it signifies that in such cases, the sworn statement will generally suffice.

<sup>55</sup> See, for example, 45 CFR §260.55(c).

<sup>56</sup> 18 NYCRR 351.2(l)(6)(vi).

<sup>57</sup> 18 NYCRR §351.2(l)(2)(i)(b).

<sup>58</sup> The Federal government has found New York’s rules in this regard to violate federal law. It is likely that the rules will be eliminated in this session of the State Legislature.

<sup>59</sup> Current state policy authorizes payment for a domestic violence shelter for an initial period of 90 days, which can be extended twice by 45 more days, though one advocate said that getting the second extension was a rarity.

<sup>60</sup> The National Domestic Violence Hotline defines a safety plan as “...a personalized, practical plan that includes ways to remain safe while in a relationship, planning to leave, or after you leave.”

<sup>61</sup> From a conversation with Andrea Hetling, Associate Professor and Faculty Affiliate with the Center on Violence Against Women and Children, Bloustein School of Planning and Public Policy, Rutgers University, February 8, 2019. Professor Hetling and colleagues have developed a proposed scoring tool for this purpose, discussed briefly in Appendix 2.

<sup>62</sup> When asked whether in fact, OPDV training now essentially calls for an automatic first-time waiver, an OPDV official stated that the training does not give that advice, but does suggest that the inclination *should be to treat first-time requests for waivers favorably*.

<sup>63</sup> *2018 Statistical Report on the Operations of New York State Public Assistance Programs*, OTDA Bureau of Data Management and Analysis.

<sup>64</sup> A number of FVO-related statistics for Westchester Co. diverged sharply from all other districts in ways that suggested reporting errors or a different reporting methodology.

<sup>65</sup> *2018 Statistical Report on the Operations of New York State Public Assistance Programs*, OTDA Bureau of Data Management and Analysis, page 73.

<sup>66</sup> See Leslye E. Orloff, Leandra Zarnow, and Yiris Cornwall, *Facilitating Access to TANF for Battered Immigrants: A Pilot Training Manual for TANF Eligibility Workers*, Legal Momentum Immigrant Women Program, funded by a grant from the U.S. Department of Health and Human Services, 2011. In this manual for welfare workers, Legal Momentum writes: Battered immigrant women are susceptible to a unique set of social, cultural, and economic barriers that leave them caught in a complex web of three intersecting public policies-welfare, domestic violence and immigration. First, battered immigrant women are victims of physical abuse and emotional abuse perpetrated by spouses, parents, intimate partners and other family members. Second, most battered immigrants are women of color and experience social and economic barriers brought on by prevalent class, ethnic and racial biases. Last, many battered immigrant women are new immigrants and must overcome language, economic, and cultural barriers, as well as become accustomed to life in the United States and Americans’ social and legal practices. In order to effectively provide safe, easily accessible services to battered immigrants, public assistance providers can be more effective if they understand the deep-rooted obstacles experienced daily by battered immigrant women.

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<sup>67</sup> Kayla Fontenot, Jessica Semega, and Melissa Kollar, *Income and Poverty in the United States: 2017*, U.S. Census – Current Population Reports, P60-263, 2018.

<sup>68</sup> Badgett, M. V. L., Durso, L. E., & Schneebaum, A., 2013. *New patterns of poverty in the lesbian, gay, and bisexual community*. Retrieved from <http://williamsinstitute.law.ucla.edu/wp-content/uploads/LGB-Poverty-Update-Jun-2013.pdf>.

<sup>69</sup> *New patterns of poverty in the lesbian, gay, and bisexual community...*

<sup>70</sup> Grant, J. M., Mottet, L. A., Tanis, J., Harrison, J., Herman, J. L., & Keisling, M., 2011. *Injustice at every turn: A report of the National Transgender Discrimination Survey*. Washington, DC: National Center for Transgender Equality and National Gay and Lesbian Task Force.

<sup>71</sup> *Lesbian, Gay, Bisexual, Transgender, Queer and HIV-affected Intimate Partner Violence in 2015*, National Coalition of Anti-Violence Programs, 2016 Release Edition.

<sup>72</sup> See 18 NYCRR 351.2(l)(2)(iii)(d), which states: (d) the agency employing the liaison and the district must provide each other with necessary training so that the agency and district can optimally fulfill their obligations under this subdivision.

<sup>73</sup> Taryn Lindhorst, Marcia Meyers, and Erin Casey, *Screening for Domestic Violence In Public Welfare Offices: An Analysis of Case Manager and Client Interactions*, Violence Against Women, 2008.

<sup>74</sup> See, for example, “Allowances and grants for other items of need,” 18 NYCRR 352.7; Emergency Assistance to Needy Families with Children, 18 NYCRR Part 372; and Emergency Safety Net Assistance, 18 NYCRR 370.3.

<sup>75</sup> An excellent book addressing this issue is, Hilary Botein and Andrea Hetling, *Home Safe Home: Housing Solutions for Survivors of Intimate Partner Violence*, Rutgers University Press, 2016.

<sup>76</sup> Home Stability Support (HSS) would enable public assistance households to pay rent up to 85% of the regional Fair Market Rent, as determined by the Federal Department of Housing and Urban Development. The HSS bill number is A.1620/S.2375.

<sup>77</sup> See 18 NYCRR §351.5(a), which provides that “...When an applicant or recipient establishes that he/she has made reasonable efforts to obtain information...the social services official must... assist the applicant or recipient in obtaining the information...”

<sup>78</sup> See Social Services Law §459-g.

<sup>79</sup> A.1288/S.4391 would eliminate all asset limits in determining eligibility and benefits for public assistance. A.4330/S.0528 would exempt certain types of resources from eligibility determinations and allow for the accumulation of specified amounts of assets without affecting eligibility.

**APPENDIX 1**  
**FAMILY VIOLENCE OPTION:**  
**NEW YORK STATE LAW, REGULATIONS AND OTDA DIRECTIVES**

**State statute - N.Y. C.L.S. Soc. Serv. § 349-a (2018)**

§ 349-a. Procedures to insure the protection of victims of domestic violence.

1. The department, after consultation with the office for the prevention of domestic violence and statewide domestic violence advocacy groups, shall by regulation establish requirements for social services districts to notify all applicants and, upon recertification, recipients, of procedures for protection from domestic violence and the availability of services. Such notice shall inform applicants and recipients that the social services district will make periodic inquiry regarding the existence of domestic violence affecting the individual. Such notice shall also inform individuals that response to these inquiries is voluntary and confidential; provided, however, that information regarding neglect or abuse of children will be reported to child protective services.

2. Such inquiry shall be performed utilizing a universal screening form to be developed by the department after consultation with the office for the prevention of domestic violence and statewide domestic violence advocacy groups. An individual may request such screening at any time, and any individual who at any time self identifies as a victim of domestic violence shall be afforded the opportunity for such screening.

3. An individual indicating the presence of domestic violence, as a result of such screening, shall be promptly referred to a domestic violence liaison who meets training requirements established by the department, after consultation with the office for the prevention of domestic violence and statewide domestic violence advocacy groups.

4. The domestic violence liaison shall assess the credibility of the individual's assertion of domestic violence. Such assessment shall be based upon the relevant information and corroborating evidence, but shall in the absence of other sufficient evidence include, at a minimum, a sworn statement by the individual alleging such abuse.

5. Upon a determination that the individual's allegation is credible,

(a) the individual shall be informed of services, which shall be available on a voluntary basis; and

(b) the domestic violence liaison shall conduct an assessment to determine if and to what extent domestic violence is a barrier to compliance with public assistance requirements or to employment; and

(c) shall assess the need for waivers of such program requirements. Such waivers shall, to the extent permitted by federal law, include, but not be limited to, residency requirements, child support cooperation requirements and employment and training requirements; provided, however, that exemptions from the sixty month limit on receipt of benefits under the federal temporary assistance to needy families block grant program shall be available only when the individual would not be required to participate in work or training activities because of an independently verified physical or mental impairment resulting from domestic violence, anticipated to last for three months or longer, or if the individual is unable to work because of the need to care for a dependent child who is disabled as a result of domestic violence.

Provided, however, that pursuant to section one hundred forty-two of the welfare reform act of 1997 victims of domestic violence may be exempted from the application of subdivision two of section three hundred forty-nine of this article on the basis of hardship.

6. Waivers granted pursuant to subdivision five of this section shall be provided pursuant to a determination of good cause in cases where compliance with such requirements would make it more difficult for the individual or the individual's children to escape from domestic violence, or subject the individual, or the individual's children, to further risk of domestic violence. Such waivers shall be for an initial period of no less than four months; provided, however, that all such waivers shall be subject to on-going review of the individual's circumstances by the domestic violence liaison, and may be extended, modified or terminated in accordance therewith. An individual may decline a waiver or terminate an existing waiver at any time without penalty.

7. Information with respect to victims of domestic violence shall not be released to any outside party or parties or other governmental agencies unless the information is required to be disclosed by law, or unless authorized in writing by the applicant or recipient.

#### **STATE REGULATIONS – 18 NYCRR 351.2(I)**

(I) Requirements for domestic violence screening, assessment, and referral for services, public assistance program waivers.

(1) Definitions.

(i) For purposes of this subdivision, victim of domestic violence means an individual who has been subjected to:

- (a) physical acts that resulted in, or could result in, physical injury to the individual;
- (b) sexual abuse;
- (c) sexual activity involving a dependent child;
- (d) being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities;
- (e) threats of, or attempts at, physical or sexual abuse;
- (f) mental abuse; or
- (g) neglect or the deprivation of medical care; and
- (h) such act or acts have or are alleged to have been committed by a family or household member.

(ii) For the purposes of subparagraph (i) of this paragraph, family or household members mean the following persons:

- (a) persons related by blood or marriage;
- (b) persons legally married to one another;
- (c) persons formerly married to one another regardless of whether they still reside in the same household;
- (d) persons who have a child in common regardless of whether such persons are married or have lived together at any time;
- (e) unrelated persons who are continually or at regular intervals living in the same household or who have in the past continually or at regular intervals lived in the same household;
- (f) unrelated persons who have had intimate or continuous social contact with one another and who have access to one another's household; or

(g) any other persons referenced in section 459-a(2) of the Social Services Law.

(2) Domestic violence liaison.

- (i) Responsibilities. Domestic violence liaisons are responsible for the following tasks:
- (a) assessing the credibility of the applicant/recipient's assertion of domestic violence based upon information and corroborating evidence;
  - (b) assessing the safety of the victim and the victim's dependents and their need for services and support;
  - (c) informing a victim of domestic violence referred to the liaison about domestic violence and the options for protection, services and other supports;
  - (d) informing a victim of domestic violence referred to the liaison about the rights and responsibilities with respect to obtaining waivers of public assistance program requirements;
  - (e) gathering facts regarding the extent to which domestic violence is a barrier to the victim of such violence meeting public assistance program requirements including employment requirements and the need for obtaining waivers of such requirements;
  - (f) determining the need for waivers where compliance with public assistance program requirements would place the victim and/or the victim's children at greater risk of harm or make it more difficult to escape from the abuse, and making recommendations for granting waivers or granting waivers of public assistance program requirements;
  - (g) periodically reassessing the individual's domestic violence circumstances and modifying, terminating or extending the public assistance program waiver(s) at least every six months;
  - (h) maintaining a list of, at a minimum, available domestic violence services and maintaining a relationship with the providers of the services including, but not limited to domestic violence service providers, key court personnel and the local domestic violence coalition, where applicable;
  - (i) coordinating activities with other case managers and examiners within the social services district;
  - (j) facilitating emergency safety planning for victims of domestic violence in a crisis situation, as necessary; and
  - (k) developing an appropriate services plan when a waiver is granted, which is designed to lead to work, to the extent that the plan would not make it more difficult for the victim to escape domestic violence or unfairly penalize those individuals who are or have been victimized by domestic violence or who are at risk of further domestic violence.
- (ii) Qualifications. Social services districts must give a strong preference to relevant advocacy or counseling experience in determining whether someone should be designated a domestic violence liaison. Domestic violence liaisons must meet the following minimum job qualifications:
- (a) be a caseworker; or
    - (1) possess a bachelor's degree; or
    - (2) have one year of domestic violence advocacy or domestic violence counseling experience with an approved domestic violence program; or
    - (3) have two years of relevant advocacy or domestic violence counseling experience; and
  - (b) complete a course of training for domestic violence liaisons sponsored by the Office of Temporary and Disability Assistance (office); and

(c) possess good communication, listening and assessment skills and the ability to work positively in a team setting.

(iii) If a social services district chooses to contract for the domestic violence liaison position(s), it must comply with the following requirements:

(a) the agency employing the liaison(s) must be an approved residential program for victims of domestic violence pursuant to Part 452, 453, 454, or 455 of this Title and/or a non-residential program for victims of domestic violence pursuant to Part 462 of this Title;

(b) if it is not feasible for the assessment function to be carried out at the offices of the social services district, the district must make provision for ensuring that individuals can go to the alternative location, that their safety will be ensured and that their confidentiality will be maintained. The district must make this information available to the office when requested;

(c) the liaison must maintain regular contact with appropriate social services district staff, including providing the district with data pertaining to public assistance program waivers; and

(d) the agency employing the liaison and the district must provide each other with necessary training so that the agency and district can optimally fulfill their obligations under this subdivision.

(3) Universal notification. Social services districts must notify all public assistance applicants and recipients of the procedures for protecting themselves from domestic violence and the availability of domestic violence services. Such notification will be done by using the universal notification handout, developed by the office in consultation with the Office for the Prevention of Domestic Violence and statewide domestic violence advocacy groups.

(4) Screening and referral to liaisons.

(i) Social services districts must inquire of all public assistance applicants and recipients regarding the existence of any domestic violence committed against the applicant or recipient. Such inquiry will be done by using the universal screening form developed by the office in consultation with the Office for the Prevention of Domestic Violence and statewide domestic violence advocacy groups.

(ii) Social services districts must advise clients that responding to questions concerning the existence of domestic violence is voluntary and that any response will remain confidential; provided, however, that information regarding suspected maltreatment or abuse of children will be reported to the Statewide Central Register of Child Abuse and Maltreatment.

(iii) Social services districts must make the screening form available for voluntary client completion, in writing, at the application and recertification interview. However, the district must accommodate clients who wish to provide this screening information verbally when completion is not possible due to literacy problems. The district must also accommodate clients who wish to provide this screening information at another time when completion is not initially possible due to risk of danger to themselves, for example due to the presence of the batterer at the time of the initial screening. The district must provide the screening form to any individual who at any time is identified as a victim of domestic violence, or otherwise requests such screening.

(iv) When an individual indicates the presence of domestic violence by providing an affirmative response on the screening form, the district must refer that individual to a domestic violence liaison as soon as practicable and prior to any other assessment.

(5) Assessment of credibility.

- (i) The domestic violence liaison must, as soon as practicable, assess the credibility of a positively screened individual's assertion of domestic violence based upon all relevant information including, but not limited to: an order of protection; court, medical, criminal, child protective services, social services, psychological, or law enforcement records; presence in a domestic violence shelter; a signed statement by a domestic violence counselor or other counselor or other corroborating evidence.
- (ii) Such assessment must be based upon the relevant information and corroborating evidence, but must in the absence of other sufficient evidence include, at a minimum, a sworn statement by the individual alleging the abuse.

(6) Services referral and waiver assessment. If the domestic violence liaison determines that the allegation of domestic violence is credible, the domestic violence liaison must, as soon as practicable:

- (i) inform the individual of services related to domestic violence, which are available to the individual on a voluntary basis;
- (ii) conduct an assessment to determine if and to what extent domestic violence is a barrier to compliance with public assistance program requirements or to employment;
- (iii) assess the need for temporary waivers of such program requirements;
- (iv) recommend or grant any necessary waivers in coordination with social services district staff who are charged with the implementation of such waivers and/or the administration of public assistance program requirements;
- (v) inform social services district staff responsible for the administration of public assistance requirements of the final determination or recommendation with respect to waivers; and
- (vi) develop an appropriate services plan when a waiver is granted, which is designed to lead to work, to the extent that the plan would not make it more difficult for the victim to escape domestic violence or unfairly penalize those individuals who are or have been victimized by domestic violence or who are at risk of further domestic violence.

(7) Waivers.

- (i) Waivers are a temporary suspension of public assistance program requirements including, but not limited to, residency rules, child support and paternity cooperation requirements, alcohol and substance abuse screening and referral requirements, and employment and training requirements. Any such waivers must be consistent with Federal law.
- (ii) The granting of a waiver does not affect the amount of the grant or the budgeting of income for the applicant or recipient.
- (iii) Waivers will be granted in cases where compliance with public assistance program requirements would make it more difficult for the individual or the individual's children to escape from domestic violence or subject them to further risk of domestic violence. Such waivers must be for an initial period of not less than four months. All such waivers will be subject to ongoing review of the individual's circumstances by the domestic violence liaison and may be extended, modified or terminated based on such review at any time, including the time covered by the initial four month waiver period. The need for waivers shall be redetermined at least every six months.
- (iv) In considering the extension of waivers, the domestic violence liaison must consider the totality of the individual's case circumstances. However, unwillingness on the part of the individual to engage in any options, steps or activities that might assist the individual in terms of safety or self-sufficiency may affect the individual's credibility.
- (v) Waivers may be granted permitting the receipt of family assistance benefits by individuals

who have already received benefits for 60 months and who would not be required to participate in work or training activities, pursuant to the regulations of the Department of Labor, because of an independently verified physical or mental impairment resulting from domestic violence that is anticipated to last for three months or longer, or if the individual is unable to work because of the need to care for a dependent child who is disabled as a result of domestic violence.

(vi) An individual may decline a waiver or terminate an existing waiver at any time without penalty.

(8) Alien eligibility and deeming.

(i) Under Immigration and Naturalization Services (INS) rules, certain battered aliens not otherwise considered qualified aliens for public assistance eligibility purposes can petition INS and be granted qualified alien status thereby entitling them to receive benefits. Aliens so qualified will be issued a “Notice of Prima Facie Case” by INS.

(ii) Social services districts must exempt such battered aliens from alien deeming requirements in accordance with section 352.33(c) of this Title.

(m) Social services districts must make all applicants for and recipients of public assistance aware of their option to receive information appropriate for victims of sexual assault. Such information must be made available to all individuals who demonstrate a need for or who are interested in receiving services appropriate for victims of sexual assault, and must include referral and contact information for all local programs that provide services to victims of sexual assault including, but not limited to:

(1) sexual assault examiner programs, including a list of any local hospitals offering sexual assault forensic examiner services certified by the Department of Health;

(2) rape crisis centers; and

(3) other advocacy, counseling, and hotline services appropriate for victims of sexual assault.

## NYS Policy Directives

### **98 ADM-3 – Domestic Violence – the Family Violence Option FVO under the Welfare Reform Act of 1997**

Closely tracks state regulations, reminds the local districts of their obligation to serve DV victims, instructs them on forms to be used, the Domestic Violence Liaison’s responsibilities and the process to be followed.

### **99 ADM-8 Domestic Violence: Final TANF Regulations and the Family Violence Option**

Revisits the FVO now that the final TANF regulations had been adopted. Districts were reminded regarding the review of waivers, the duty to develop service plans, and that the plan should be a resource for the client. A model service plan is included.

### **99 INF-10 Domestic Violence Waiver of Temporary Assistance Lien Requirements; Recovery of Temporary Assistance from Legally Responsible Batterers**

OTDA “strongly discourages” pursuit of recovery of welfare funds from abuser, as it might put the client at risk and violate confidentiality.

### **02 INF-36 – Family Violence Option Q & A**

Among other points, the INF notes that income and resources cannot be counted if they are not available to the individual client, so must be disregarded in determining eligibility.

**03 ADM-02 – Desk Reference for DV Screening under the Family Violence Option**

DSS staff are urged to use this guide (LDSS-4813) while doing initial screening for DV.

**03 ADM- 05 – Child support and the Family Violence Option**

The ADM emphasizes child support staff and FVO/DV staff must understand each other’s responsibilities and be in regular communication.

**03 INF-29 – Family Violence Option: Domestic Violence Liaison List**

Includes discussion of interdistrict moves

**06 INF-11 - Family Violence Option Policy Clarifications**

Clarifies certain policies, including encouraging more flexibility in assessing risk to ensure safety and assistance to DV victims.

**07 INF-09 – Updated versions of various forms**

Domestic Violence Information for All Temporary Assistance Applicants; Notification of Decision on a Waiver, Notification of Decision on a Continuation of Waiver, etc.

**08 INF-02 LDSS-4583: New Domestic Violence Screening Form**

Updated original form in 98 ADM-3

**08 INF-05 – Revised Domestic Violence Information for All Temporary Assistance Applicants Replaced “Universal Handout”**

**18-OCFS-INF-03/18-OTDA-INF-11 - Best Practice Guidance on the U. S. Dept. of HUD’s Coordinated Entry Process for Victims of DV to Access Homeless Housing Resources**

## APPENDIX 2

### SHOULD THERE BE A UNIFORM PROCEDURE FOR MAKING THE CREDIBILITY ASSESSMENT?

There appears to be substantial variation among Domestic Violence Liaisons in terms of whether and how they use the Model Assessment for evaluating the credibility of DV claims. Some DVLs use alternative screening tools, and some rely primarily on their experience and expertise in making these decisions. It is our belief that the FVO process would be more equitable if there were greater consistency in the decision-making process.

This greater consistency might be achieved if a specified tool, either the Model Assessment, or some other carefully vetted tool, were required for use throughout the state. Accompanying the tool would be guidance on how it should be used and establishing uniform decision-making criteria. The key result of this standardizing of the process would be more consistency, and therefore more equitable identification of domestic violence, with clients having a similar experience regardless of where they live.

I spoke at length with a Rutgers professor and DV expert, Andrea Hetling, who noted that the current lack of consistency, both within New York and around the country, make it very difficult to evaluate and compare assessment outcomes. This hinders research into ways the process might be improved. Prof. Hetling observed that the call for greater uniformity, with some degree of local flexibility, is supported by literature in this field. On a more practical note, she mentioned that in some states, public assistance officials did not trust more subjective assessment tools that lacked clear standards for reaching final determinations.

Prof. Hetling and colleagues have actually developed an assessment tool.<sup>1</sup> I am not advocating that it be adopted, but will only take note of a few characteristics of the tool and its use.

- Time – Prof. Hetling estimated the time needed to administer her tool at 45 minutes to an hour. I do not believe that is a much longer period than is required for the Model Assessment.
- Where administered – presumably this tool could be administered at any location, but it was tested in a setting that was separate from the local welfare office. This had the disadvantage of requiring additional travel, but the advantage of affording the client a space away from what may be seen as the intimidating institutional setting of the welfare center. In addition, the pace tended to be somewhat more relaxed without the time pressures often felt in welfare centers by DSS staff.
- Evaluation – The most striking difference between this tool and the Model Assessment is in the evaluation once the information is gathered. With the Rutgers tool, the DVL or whoever is doing the evaluation assigns a numerical score within a specified range for each question, and tallies those scores to determine the outcome. This would likely diminish the ability of an experienced DVL to use subjective criteria, what one DVL referred to as “going with my gut...” Whether that is a positive or negative fact is open to debate.

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<sup>1</sup> “Assessing Domestic Violence under the Family Violence Option (FVO).” This website includes the tool itself in the Phase III report, <https://socialwork.rutgers.edu/centers/center-violence-against-women-and-children/research-and-evaluation/assessing-domestic-violence-under-family-violence-option-fvo>.

- Finally, Prof. Hetling noted one additional distinction between the tools. The Model Assessment focuses on the degree to which the client may be in danger. The Rutgers tool does this as well, but also measures the extent to which the client's DV experience impacts her ability to participate in work activities. There seems to be substantial value in including that information in the tool.

### **APPENDIX #3**

#### **THE AFFORDABLE HOUSING CRISIS AND DOMESTIC VIOLENCE**

There is a complex but stark relationship between domestic violence and housing instability. Many factors may play a role, among them:<sup>2</sup>

- Abuse may impel a person to leave home, with an urgent need to find alternative housing;
- Financial abuse may mean leaving home with virtually no resources with which to secure new housing;
- Domestic violence is associated with a higher recurrence of mental conditions that result in greater difficulty finding and retaining decent housing; and
- Harassment by the abuser and the victim's fear may make it more difficult for them to get and retain employment. This in turn would jeopardize their ability to pay rent.

There is also, of course, a controlling connection between a person's financial resources and access to decent housing. It thus becomes apparent that a domestic violence victim with very low income faces daunting challenges in securing safe, decent, stable housing.

In New York, there are many areas, certainly New York City and the suburbs, but in many other regions throughout the state as well, where a person receiving public assistance will struggle to pay even the most modest rent for barely decent accommodations. In Albany County, the monthly Fair Market Rent (FMR) for a two-bedroom unit is \$1,115, while the maximum public assistance rent allowance for a household of three is \$309 per month, or about 28% of the FMR.<sup>3</sup> In Erie County, the two-bedroom FMR is \$838, while the welfare rent allowance for a household of three is \$301, or about 36% of the FMR. And of course the disparity is even greater in, for example, New York City and the suburbs.

There is no county in New York where the shelter allowance provides enough money to cover even half of the Fair Market Rent. So it is not at all surprising that public assistance households throughout the state struggle to find housing they can afford. Further, if the person seeking housing is a domestic violence victim, the search for housing is all the more onerous. Domestic violence shelters generally limit the stay to a maximum of six months; the shortage of beds rules out longer stays. Rapid Rehousing programs offer somewhat longer stays, but still afford relatively short-term relief for a modest number of tenants. A limited number of agencies across the state operate transitional housing facilities in which a person might be able to stay for as long as 12 months but, again, the need far exceeds the supply.

An advocate from the western part of the state noted that in her area, homeless single adults without children were only able to be placed in rooms in boarding houses of questionable

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<sup>2</sup> See, for example, *Shortchanging Survivors: The FVO Option for TANF benefits - A Report by the DV Program of the National Law Center on Homelessness & Poverty*, December 2009; Hilary Botein and Andrea Hetling, *Home Safe Home: Housing Solutions for Survivors of Intimate Partner Violence*, Rutgers University Press, 2016.

<sup>3</sup> The Fair Market Rent, or FMR, is a computation, updated annually by the Federal Department of Housing and Urban Development (HUD). Its objective is to provide an estimate of the cost of decent but modest housing in regions throughout the nation.

quality, though households with children might be able to access the local Rapid Rehousing program. Rapid Rehousing programs, sometimes called transitional housing, provide a bridge between emergency shelters, including domestic violence shelters, and more long-term accommodations.

Interviews indicated that the DVLs may not have the capacity to assist clients in finding permanent housing, but that DSS staff and local domestic violence agencies are likely to assist when they can. The problem is simply the lack of decent affordable housing. A DVL in a downstate county stated that abuse victims staying at her agency's safe house are required by DSS to document that they have made at least four contacts in an effort to find long-term housing each month. She said that even that modest-sounding obligation was "ridiculous" because the client had little or no chance of finding a place she could afford on the welfare grant in that region. Another DVL estimated that 50% of her clients required emergency housing, but 85% needed long-term housing.

It bears emphasizing that much of the housing domestic violence victims (as well as other welfare recipients) are able to find requires them to live doubled up with others, to find housing that may or may not be legally certified for occupancy, or that place the tenant in unsatisfactory if not unsafe conditions. These types of housing are unlikely to provide the stable setting victims of domestic violence urgently need. Research has increasingly demonstrated that living with unstable housing conditions impacts the individual and the family, with predictable outcomes in terms of school performance, physical and mental health, job retention and general family well-being.<sup>4</sup> It seems beyond debate that addressing the affordable housing crisis must be a central focus of any meaningful undertaking to enhance the life opportunities for low-income Americans generally and for victims of domestic violence in particular.

*Not surprisingly, one of our key recommendations is to voice support for the Home Stability Support legislative initiative, which would substantially supplement the current public assistance rent allowance. See recommendation #1 under Welfare Rules.*

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<sup>4</sup> See, for example, Martha Galvez and Jessica Luna, *Homelessness and Housing Instability: The Impact on Education Outcomes*, Urban Institute, December 2014; Meredith Horowski, et al, *Housing Instability and Health: Findings from the Michigan Recession and Recovery Study*, National Policy Center Policy Brief, University of Michigan, 2012; Matthew Desmond and Carl Gershenson, *Housing and Employment Insecurity Among the Working Poor*, *Social Problems*, *Social Problems*, Volume 63, Issue 1, February 2016.

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