

## Building Opportunities for Battered Women's Safety and Self-Sufficiency



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# Table of Contents

|  |    |
|--|----|
| Introduction to the Practice Paper Series.....   | 1  |
| Introduction to the Practice Paper #1.....   | 1  |
| I. Overview of Domestic Violence: Battered Women's Risks and Safety Plans.....   | 1  |
| Batterer-generated risks.....  | 2  |
| Battered women's safety planning strategies.....   | 3  |
| II. What Battered Women Need to Be Safe and Self-Sufficient.....   | 3  |
| III. Universal Notification of Options/Program Requirements and Screening for Voluntary Disclosure of Domestic Violence..... | 5  |
| How to find the battered women who need help.....  | 6  |
| IV. Staffing Approaches.....   | 7  |
| Specialized staff.....   | 7  |
| Non-specialized staff.....   | 8  |
| Integrated community resources.....  | 8  |
| V. Should the Pursuit of Safety Options be a Program Requirement for Battered Women?.....                                    | 9  |
| VI. Safety Issues in the Child Support Enforcement Context.....  | 11 |
| Key PRWORA child support provisions affecting battered women.....  | 11 |
| 1. Cooperation requirement.....  | 12 |
| 2. Databases.....  | 12 |
| 3. Paternity establishment.....  | 14 |
| Safely enforcing child support.....  | 14 |
| VII. Balancing Access to Help and Fraud Protection Concerns.....   | 15 |

## **Introduction to the Practice Paper Series**

This practice paper series, developed by the National Resource Center on Domestic Violence and funded by the U.S. Department of Health and Human Services, is part of an initiative to provide technical assistance to state administrators and domestic violence advocates implementing the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) in TANF and child support enforcement (CSE) contexts. This initiative is a partnership between the National Resource Center on Domestic Violence (NRC) and the Administration for Children and Families, DHHS.

The purpose of this series is to provide practical information that will help states implement welfare and child support enforcement reforms that promote both the safety and self-sufficiency of battered women <sup>(2)</sup> and other domestic violence victims.

Welfare reform has raised new opportunities, challenges and uncertainties. The range and pace of the change makes it difficult to predict the effects on battered women and their families. As with many aspects of welfare reform, there are more questions about the intersection of domestic violence and welfare than there are answers. As state programs, pilot projects, and research proceed, the NRC will continue to update and incorporate new information and make it available to you. We welcome your feedback and suggestions.

## **Introduction to the Practice Paper #1**

The first two papers in the series discuss interrelated issues and are designed to compliment each other. Practice Paper # 1 includes background information about domestic violence and the options battered women need to be safe and self-sufficient, and concise discussions of key implementation issues. Practice Paper # 2 provides detailed guidance on developing family violence protocols for: the disclosure of domestic violence information; TANF/CSE program response to such disclosures; and the safe enforcement of child support when family violence may be a risk. Future practice papers will address other family violence protocol areas, such as training, state implementation of Federal Parent Locator Service privacy protections, and welfare-to-work initiatives.

## **I. Overview of Domestic Violence: Battered Women's Risks and Safety Plans**

Domestic violence is defined as a pattern of assaultive and coercive behaviors, including physical, sexual, and psychological attacks, as well as economic coercion, that adults and adolescents use against their intimate partners <sup>(3)</sup>. The overwhelming majority of domestic violence victims

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2 Because the overwhelming majority of domestic violence victims are women abused by a male partner, this paper uses "she" or "battered woman" when referring to a victim of domestic violence, and "he" when referring to a "batterer." All victims of domestic violence deserve support and responsive advocacy, including victims in same sex relationships and male victims abused by female partners.

3 Warshaw, C. and A. Ganley. 1995. Improving the health care response to domestic violence: A resource manual for health care providers. San Francisco: Family Violence Prevention Fund.

are women abused by a male partner <sup>(4)</sup> . However, formal definitions and statistics do not convey the complexity and difficulty of the lives of battered women and their children. When building opportunities for battered women's safety and self-sufficiency, it is critical to understand both the risks battered women face because of their partner's behavior, and the safety plans battered women use to try to reduce those risks.

**Note:** For the purposes of this paper series, domestic violence and family violence will be used interchangeably. In addition to the risks and obstacles faced by all poor people, poor battered women face an additional set of risks created by their partners' behavior. These are batterer-generated risks. (For more information see the Appendix: *Safety Planning* .)

## **Batterer-generated risks**

A common image of a domestic violence victim is a woman with a black eye and bruised face. Domestic violence is often understood as solely or primarily physical violence. However, physical violence is just one of the tactics used by batterers to control their partners, and therefore it is just one of the risks battered women and their children face. Batterers' controlling behavior may also cause risks to the children, psychological harm, the loss of housing, health care, employment, or current standard of living. (See Battered Women's Risk Analysis Chart in the Appendix: *Safety Planning* .) In addition, some battered women may not consider the physical violence they are experiencing to be their greatest risk. For example, some battered women may see risks to the children or the loss of financial support as their greatest danger.

A battered woman will face one set of batterer-generated risks if she stays in the relationship and a different set if she leaves. Leaving a relationship does not guarantee the reduction or elimination of violence, threats, or other risks. For some battered women, leaving may create new risks or increase existing ones.

Battered women continually analyze the risks they face. Part of a battered woman's risk analysis is consideration of the effect that staying in or leaving the relationship will have on those risks. A question frequently asked about battered women is, "Why do they stay?"

This question does not reflect the real issues and considerations a battered woman must face. In contrast, the questions a battered woman may ask herself are more complete, such as: "Should I stay and risk the violence?" "If I leave will the violence be worse?" "Should I leave and place myself and my children in poverty?" "Should I leave and risk losing my children in a custody battle?"

## **A Scenario**

*Beth and Don have been together for two years and have a 1-year old daughter. Don made all the decisions in the family, and when Beth tried to assert herself, Don beat her up "to show her who is boss." Beth left Don right after their daughter was born. Don then harassed and threatened Beth at her job until she was fired. He also filed for custody of their daughter*

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4 The U.S. Department of Justice estimates that 95% of reported assaults on spouses and ex-spouses are committed by men against women (Douglas, 1991).

*alleging that Beth was a bad mother. Don told Beth, "If the judge gives you custody, I'll make sure you never see your daughter again."*

**Discussion:** Beth left Don because he hit her. Beth faced new risks once she left, including the loss of her daughter. For Beth, the risk of losing her daughter was her greatest concern. Don knew this and continued his control by using their daughter. Don caused Beth to lose her job, knowing this would undermine her ability to fight for custody and independently provide for herself and her daughter. He then filed for custody, knowing Beth would not separate from her daughter.

### **Battered women's safety planning strategies**

Typically, when a battered woman experiences a batterer-generated risk, such as physical violence, she tries to figure out why it happened and how to keep it from happening again.

She may develop a number of strategies to reduce or eliminate the risk. She may reach out to family or friends, try to talk with her partner about what happened, seek the help of a domestic violence project, counselor, employer, or clergy person. These strategies are "safety plans," although few battered women would actually use that phrase. Each battered woman faces different risks and has different options and resources. Therefore, each woman's safety plan will be unique.

Battered women use complex and creative safety plans to reduce the risks that they and their children face. As any person making a significant life decision, battered women must consider the consequences of pursuing certain options.

- *If I call the police, they can stop the current attack, but my partner will lose the job that supports our family.*
- *If I get a protective order, he'll be forced to leave the home, but I can't afford the rent on my income alone.*
- *If I stop seeing him, he said he'd kill me.*

Such consequences may make a particular option useless or raise additional risks the battered woman must address in her plan. Although most battered women understand the risks they face and develop useful strategies to address them, some battered women do not. A battered woman may have an incomplete analysis of the risks surrounding her. In addition, some safety plans may be incomplete and some are based on inaccurate assumptions and information. For some battered women, mental health issues including drug/alcohol abuse will affect their ability to do accurate risk analysis and safety planning.

## **II. What Battered Women Need to Be Safe and Self-Sufficient**

- *Tina has left her partner several times. The first time she left she became homeless and rather than living on the street she went back. The next time she left she had a job, but couldn't find child care after he said he wouldn't watch the kids anymore.*

**Tina needs a job and child care.**

- *Keisha plans to leave her abusive partner once she saves enough money to get her own place. Her partner steals money from her and keeps her from getting a job so she can't leave.*

**Keisha needs money and affordable housing so she can move and go to work without interference.**

- *Dawn attends a welfare-to-work program but misses class regularly because she is afraid to leave her children alone with their alcoholic, abusive father when he's been drinking. He hits her any time she talks about other child care arrangements. She's thought about filing for custody, but is afraid she'll lose because her partner spends more time with the children than she does.*

**Dawn needs advocacy, legal representation/advice, and time to pursue the options that will protect her and her children. This might mean flexibility by her welfare-to-work program or temporary relief from the requirement that she participate. If Dawn is able to gain custody of the children and protection from her partner, she will also need child care in order to work or participate in work activities.**

- *Lisa has survived many years of abuse, first as a child by her parents and then as an adult by her partner. Lisa has not been able to keep a job for more than a few days.*

**Lisa needs financial support and a skilled response to the effects of years of victimization until she is either able to support herself through work or is determined to be permanently disabled.**

- *Elsa left her abusive partner a year ago. When the state contacted him about child support, he beat her up. He told her, "If you don't stop this, you'll never see your kids again."*

**Elsa needs a child support enforcement strategy that protects her and her children.**

As these examples illustrate, each battered woman faces different risks and therefore has different needs for safety and self-sufficiency. Because each battered woman's risks are different, determining what battered women need must be done on a case-by-case basis. There is no formula for safety or self-sufficiency. Options that may work for one woman will increase danger for another. For example, leaving a relationship can increase risks for some battered women and their children and diminish them for others. In addition, particular responses may vary greatly from one jurisdiction to another. For example, the prosecutor in one jurisdiction may work hard to prosecute batterers and protect victims, and a prosecutor in another jurisdiction may just immediately dismiss domestic violence cases.

In some cases, determining what a particular battered woman needs will be as simple as asking her. Some battered women will know exactly what they need to be safe and self-sufficient. Others may need advocacy to explore their risks and options and develop a safety strategy. Working with battered women to enhance their safety plans can be complex. It begins with understanding her risk analysis and current safety plans and then requires a skilled integration of additional information and options. It is work best done by trained advocates who can provide battered women confidential opportunities to explore their risks and plans.

Like all people, battered women have basic needs for housing, food, health care, and physical safety. Like all people, they also need the basics of human dignity - privacy, opportunity, and self-determination.

**These broad needs can be refined into more specific responses that will enhance safety and self-sufficiency, such as:**

- **TANF/CSE program domestic violence response**

This might include: process for confidential and voluntary disclosure of domestic violence; program flexibility to meet battered women's safety needs; confidential records, including the protection of her address and other information from her partner; specially trained staff to respond to domestic violence disclosures.

- **Employment**

Battered women who can work need jobs that pay a living wage and provide health insurance for themselves and their children. To obtain and maintain such a job, a battered woman might need: job training or other educational opportunities to obtain employment; a job site at which she will be safe from interference or attack by her abusive partner/ex-partner; child care; housing; transportation; or flexible work activities or temporary time free from required work activities to allow her to respond to her children's needs, attend court hearings, participate in counseling, or take other action that will enhance her safety and self-sufficiency.

- **Services and advocacy to enhance safety**

This might include: relocation services; confidential advocacy, shelter, and other domestic violence support services; legal representation in divorce, custody/visitation, protective order, immigration, or related issues; effective enforcement of criminal laws and court orders to help free her from her partner's control and keep her and the children safe.

Battered women need a wide range of responses to enhance their safety and self-sufficiency. It is unrealistic to expect that TANF/CSE programs alone will provide all that battered women and their children need. To be successful, TANF/CSE programs will need to build their response to domestic violence in collaboration with domestic violence advocates and others. In addition, the response will need to connect with and expand existing advocacy and service networks.

### **III. Universal Notification of Options/Program Requirements and Screening for Voluntary Disclosure of Domestic Violence**

There is a growing understanding that some - but not all - battered women will need a different response from TANF/CSE programs in order to be safe and self-sufficient. This response could include:

- services that will enhance safety and self-sufficiency, including TANF/CSE program services and referrals to community services; and
- "temporary relief" from program requirements that diminish safety and self-sufficiency, such as work or job search requirements, time limits or cooperation with child support enforcement.

Numerous state efforts are underway to expand access to existing domestic violence services and to develop new services to help battered applicants/recipients. In addition, the majority of states and territories have already adopted some form of *temporary relief* by certifying implementation of the Family Violence Option or passing similar statutory provisions.

There is considerable debate over how to get the available services and temporary relief to the battered women who need them.

### **How to find the battered women who need help**

This may be difficult. The inherent risks and realities of domestic violence mean certain approaches may increase danger or be ineffective.

- A worker asks a battered applicant questions about domestic violence in front of her abusive partner. She answers that there is no domestic violence, but her partner beats her up when they get home to show her what will happen if she does tell.
- A battered applicant is given only one notice of domestic violence services and temporary relief from program requirements. It is one section among 15 pages of information provided to all who apply for assistance. She never sees it.
- A battered recipient tells her worker she can't go to job search activities because her partner won't let her. The worker laughs and says, "That's ridiculous, you're a grown woman you can do whatever you want. You're just trying to get out of looking for a job."
- A battered applicant doesn't need any services or temporary relief to find work that will support herself and her child. At intake, the worker asks the battered applicant questions about domestic violence. The applicant believes she has to answer the questions or she won't be eligible for assistance. Talking to the worker about her experiences is very painful. She gets very depressed and starts to have nightmares again.

As the examples above illustrate, even well meaning approaches can cause unintended harm. One time notices may not work. Poorly trained or insensitive workers can help to reinforce a batterer's threats to his partner that, "no one will believe you." A batterer may use a range of physical, psychological and sexual attacks to control his partner's interactions with a worker. In addition, each battered woman will have different feelings about telling a welfare or CSE worker about her experiences. Some will appreciate that someone cares enough to ask, others will find it extremely difficult, and some may never feel comfortable enough to disclose the domestic violence they are dealing with.

Battered women who do not need services or temporary relief have no reason to disclose domestic violence to a TANF/CSE program. In addition, some battered women may disclose but are unable to meet the program requirements for temporary relief. Therefore, it is essential that battered women have the opportunity to make informed decisions about disclosing domestic violence information and that all disclosures are truly voluntary.

States are exploring a variety of approaches in their response to family violence. Two principal strategies that allow for voluntary and informed disclosure are *universal notification* and *screening for voluntary disclosure of domestic violence*.

- **Universal notification** provides all applicants and recipients with information about domestic violence and the options and services that are available to victims. The notice also provides information about how to apply for temporary relief from program requirements.
- **Screening for voluntary disclosure of domestic violence** means a trained worker asks an applicant/recipient a number of domestic violence related questions and it is up to the applicant/recipient whether or not to answer the questions. This opportunity might happen at the initial intake and at other points in the program when the worker interacts with the woman. To ensure voluntary disclosure, the worker first explains why s/he is asking the questions, what s/he will do with the information the applicant/recipient provides, and clearly states that the applicant/recipient does not have to answer the questions. The domestic violence questions might be quite simple, such as: "Are you afraid of your partner or ex-partner?" "Has he done anything to hurt or scare you?"

These two strategies are not mutually exclusive. A program could provide both universal notification and screening for voluntary disclosure. For example, a worker might affirmatively ask questions once an applicant or recipient brings up safety or other concerns regarding program requirements.

## IV. Staffing Approaches

Building options for safety and self-sufficiency will require the performance of a number of tasks, which might include: provision of universal notification, screening for voluntary disclosure of domestic violence, identification of relevant services and resources, responding to domestic violence disclosures, reviewing applications for temporary relief, and implementation of strategies to safely enforce child support. A key implementation issue facing administrators is who will perform these tasks. There are a number of "realities" that will determine staffing, such as the number and workload of current staff, collective bargaining agreements or other employment parameters, and budgetary concerns. Some additional factors to consider are:

- the current capacity/skill of staff to handle family violence issues;
- training and supervision resources available to develop or enhance that capacity, particularly given current training/supervision demands created by changes to the law/program,
- "culture change" and/or other program initiatives; and
- availability and capacity of community resources.

States are exploring three principal staffing approaches to implement family violence aspects of their TANF/CSE programs.

### Specialized staff

Staff trained and skilled in responding to family violence issues can be used in a variety of ways. One approach is for TANF/CSE program staff to provide basic family violence information and response to applicants/recipients and then refer those with family violence issues to specialized TANF/CSE staff. Another approach might be to use specialized staff in particular roles in the program, such as intake, assessment for services, or case management.

### **There are several strengths of a specialized staff approach:**

- can provide battered applicants/recipients with access to the type of interaction and information they need;
- may also allow some programs to provide staff more time to work with battered applicants/recipients and provide a wider range of services; and
- may also have more opportunity to develop ongoing working relationships with community resources responding to domestic violence.

### **There are also some key considerations:**

- *training* - specialized staff will need more extensive training. All staff will still need some training to effectively interact with and refer battered applicants/recipients;
- *flexible assignment* - supervisors may need to have flexible assignment of specialized staff to meet fluctuating demand;
- *access* - may be difficult to ensure that all who could benefit from interactions with specialized staff get that opportunity; and
- *resources* - may require a greater commitment of agency resources.

### **Non-specialized staff**

This approach places responsibility for implementation of family violence protocols on existing staffing structures. Some states may already have staffing patterns that lend themselves to this work.

### **There are several strengths of a non-specialized staff approach:**

- once successfully implemented, it ensures that **all** staff have capacity to respond to family violence;
- it uses existing staffing resources/structures; and
- this approach could provide more access to information/services for battered applicants/recipients - all interactions with staff would potentially provide access.

### **There are also some key considerations:**

- *training, skill development* - may require significant time, resources to properly train all staff and staff turnover may be frequent; training may not be enough preparation for some staff to respond effectively; some staff may have violence issues in their lives, which may raise training and staffing issues;
- *time* - staff with multiple responsibilities may not have enough time to help battered women gain access to the help and information they need; and
- *limited response* - staff may not be able to provide the range and depth of services needed to enhance safety and self-sufficiency.

### **Integrated community resources**

Local community resources such as domestic violence shelter services can be integrated with TANF/CSE programs. This might mean that TANF/CSE program staff provide basic information

and response and then refer applicants/recipients with family violence issues to community resources. It could also mean that a particular task or role, such as identifying the services battered applicants/recipients need, is carried out by a community agency.

**There are several strengths of an approach that utilizes community resources:**

- can provide a more direct, comprehensive response to battered applicants/recipients;
- uses "staff" with knowledge, skill, experience with family violence issues; and
- interactions between program and community staff provide ongoing opportunities to learn from each other and develop collaborative strategies to help battered women.

**There are also some key considerations:**

- *availability, capacity* - community resources may not exist or may have very limited capacity to fulfill integrated role. Funding should be made available to establish/expand community resources;
- *role definition* - unclear expectations between the TANF/CSE agency and the community agency can lead to ineffective/harmful response to battered applicants/recipients. Battered women may be confused about where to go for help; and
- *access* - location of community agency may hinder use by battered applicants/recipients, may be difficult to ensure that all who could benefit from interactions with specialized staff get that opportunity.

## **V. Should the Pursuit of Safety Options be a Program Requirement for Battered Women?**

There are a number of reasons why states might consider making the pursuit of safety options a program requirement for battered applicants/recipients. These might include a belief that women will not take action on their own behalf unless it is a requirement, and/or that everyone must "do something" in order to receive assistance. In addition, each program has its own unique "carrot and stick" approach to welfare reform/CSE which may affect this decision.

Requiring the pursuit of safety options can be inappropriate or have unintended negative consequences for battered women. Before implementing such a requirement, agencies should consider the following:

- **Battered women should not be held responsible for a batterer's behavior.**

Batterers cause domestic violence, not battered women. Therefore, requiring a battered woman to stop the violence of a batterer is inappropriate. For example, requiring her to keep her partner from interfering with her work activities is making her responsible for his behavior.

- **Battered women should not be required to pursue options that do not enhance their safety or increase their risks.**

Some options do not enhance safety for some women. Battered women's safety plans must be customized to their particular risks, the nature of their partner/ex-partner's abuse, and the options available. There is no one safety plan or option that will reduce all battered

women's risks. In addition, the pursuit of a particular option may increase some risks for some women.

### **Example: Protection orders**

Protection orders issued by criminal or civil courts can enhance the safety of some women, but do not work for all. Some of the reasons a protection order might not work are:

- the batterer will not obey court order;
  - the batterer will increase his violence when he is "served" with the order;
  - the protection order may not include protection of the children;
  - the batterer will lose his job as a result of the order and this will reduce the likelihood of child support;
  - she will lose her job if she misses work because she must go to court to get an order;
  - the protection order will "kick him out" of the home and she can't afford the rent on her own; or
  - the batterer will find a woman in hiding because the legal process for obtaining an order may give him information about where she is and the opportunity to have contact with her in court.
- **Battered women should not be required to pursue options that are unavailable or beyond their control to access.**

Some options are not available. Options, such as a domestic violence shelter, may not exist in some regions or an agency may not have the resources to meet the need. Access to the services may also be a problem if transportation is unavailable, unaffordable, or takes too much time from the woman's other responsibilities. For example, the bus ride to the support group at the domestic violence program takes two hours and does not return her in time to meet her children coming home from school. Some options have certain eligibility requirements, such as income limits, geographic requirements, or meeting the agency's definition of who they serve. For example, some domestic violence agencies will not serve people actively abusing substances and other agencies are only for people who have a substance abuse problem. Drug treatment facilities may not allow a woman to bring her child, forcing her to "give up her children" in order to get help.

A number of safety options have specific legal requirements that must be met before a court will order them. For example, protection orders typically require a certain relationship between the batterer and victim, a particular type of violence to have occurred, certain papers to be filed, and the batterer to be given official notice of the court hearing. Any one of these could keep a battered woman from getting the protection order and some are beyond her control (e.g., a batterer who avoids "official notice" in order to keep her from getting the order).

It is also important to remember that at the time a battered woman is talking to a TANF/CSE agency, she may not know the availability, eligibility requirements, or legal requirements related to a particular option. Therefore, she might agree to pursue an option only to find out later that it is unavailable or inaccessible to her.

## VI. Safety Issues in the Child Support Enforcement Context

This section focuses on child support enforcement safety issues for battered mothers who are applicants/recipients of TANF programs. Battered mothers who are not currently involved with the TANF system may also have safety concerns regarding enforcement, and some of the provisions discussed will affect them.

### Key PRWORA child support provisions affecting battered women

In general, the PRWORA tries to streamline and automate the child support process and institute a more aggressive approach to establishing paternity and collecting child support. In addition, the PRWORA made changes in the following areas:

- **Cooperation/Good Cause**

- requires a mandatory reduction of at least 25% of TANF assistance <sup>(5)</sup> for failure to cooperate with paternity establishment or child support enforcement without good cause or other exception <sup>(6)</sup> ; good cause exceptions to cooperation with child support enforcement were in place under federal regulations prior to the PRWORA. States, and not the federal government, will now define both "cooperation" and "good cause or other exception" to cooperating.
- requires the child support enforcement agency to make the cooperation determination <sup>(7)</sup> ;
- allows states to choose the CSE (IV-D), TANF (IV-A), or Medicaid agency to make the good cause or other exception determinations <sup>(8)</sup> ;

- **Databases**

- requires the development and integration of a number of databases to locate absent parents and track the enforcement of child support orders <sup>(9)</sup> ; and

- **Paternity Establishment**

- provides incentives and expedited processes to facilitate the establishment of paternity. <sup>(10)</sup>

More effective child support enforcement can provide essential financial security to the children of battered women. Child support can also enhance the safety and security of the children's battered mothers. However, enhanced enforcement may also raise significant safety concerns

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5 The PRWORA also gave states the option to require custodial and non-custodial parents to cooperate with child support enforcement in order to be eligible for Food Stamps. See 7 U.S.C. 2015 (l-n).

6 42 U.S.C. 608.

7 42 U.S.C. 654(29).

8 42 U.S.C. 654(29).

9 See e.g., 42 U.S.C. 653, 653A, 654A.

10 See e.g., 42 U.S.C. 652(g), 666(a)(5).

for some battered women and their children. A more detailed discussion of the safety considerations regarding cooperation, databases, and paternity establishment follows.

## **1. Cooperation requirement**

Given the time limits on TANF assistance and the overall benefits of child support, many battered women will actively "cooperate" with the State to enforce child support and establish paternity. However, some battered women may not cooperate because it will increase the risk of violence or because they are unable to do so.

### **Examples include:**

- *A battered woman and her child are hiding from her abusive ex-partner to stay safe. Cooperating with child support enforcement will give him an opportunity to find her.*
- *He will know when she has to be in court and may gain access to information about her location as part of the legal process.*
- *A battered woman's abusive partner says he'll kill her and the children if she tries to collect child support.*
- *Several years ago, a battered woman fled from a brief relationship she had with the abusive father of her child. She has no current information about him. She is afraid to try to contact his friends or family because they will then know where she is and tell him.*
- *A battered woman fled her abusive partner because the state's child protection agency told her that he had sexually assaulted their child. She believes if the state pursues child support collection from him he will want and get contact with this child.*

## **2. Databases**

The privacy and safety issues for battered women raised by the CSE databases will be the topic of a future paper in this series. An overview of the some of the key issues is included below.

The PRWORA introduces and strengthens a number of provisions to automate child support enforcement and make it easier to find absent parents. A key strategy is the development of new databases and the integration of databases. These include state new hire directory, state case registry, and the federal parent locator service which includes the national directory of new hires and Federal Case Registry of Child Support Orders. In addition to establishing these databases, the PRWORA requires that information in the various databases be regularly compared. When the comparison reveals a match, a report is then to be made to the state agency responsible for the case.

To the extent these databases and services help enforce proper court orders, they will be a great benefit to the children of battered women. However, if a battered woman is in hiding to protect herself and/or her children, then these databases may make it easier for an abusive ex-partner to find her. This situation may also arise when a batterer has the child and is seeking child support from the child's mother who is hiding from him for her safety.

The PRWORA contains strong language restricting disclosure and use of the information in the Federal Parent Locator Service <sup>(11)</sup> and other databases <sup>(12)</sup> . However, before the privacy protections can be achieved, there are a number of implementation issues to resolve, including computer information systems. State procedures and systems are essential to the implementation process.

Databases also allow for significant automation of the enforcement process. Computers will seek and attach assets of delinquent obligors. This could cause unintended negative consequences for a battered mother unaware of this approach.

## A Scenario

*Rita divorced Manny four years ago. Manny was ordered to pay \$40 per week child support as part of the divorce, but he "disappeared" after making a few months of payments, and Rita doesn't know where he is. Since Manny paid for awhile, she thought it would be safe*

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- 11 42 U.S.C. 653(b): No information [from the Federal Parent Locator Service] shall be disclosed to any person if the State has notified the Secretary that the State has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the custodial parent or the child of such parent, provided that:

*(A) in response to a request from an authorized person (as defined in subsection (c) of this section and section 663(d)(2) of this title), the Secretary shall advise the authorized person that the Secretary has been notified that there is reasonable evidence of domestic violence or child abuse and that information can only be disclosed to a court or an agent of a court pursuant to subparagraph (B); and (B) information may be disclosed to a court or an agent of a court described in subsection (c)(2) of this section or section 663(d)(2)(B) of this title, if (i) upon receipt of information from the Secretary, the court determines whether disclosure to any other person of that information could be harmful to the parent or the child; and (ii) if the court determines that disclosure of such information to any other person could be harmful, the court and its agents shall not make any such disclosure.*

- 12 42 U.S.C. 654: A state plan for child and spousal support must ... (26) have in effect safeguards, applicable to all confidential information handled by the State agency, that are designed to protect the privacy rights of the parties, including:

*(A) safeguards against unauthorized use or disclosure of information relating to proceedings or actions to establish paternity, or to establish, modify, or enforce support, or to make or enforce a child custody determination;*  
*(B) prohibitions against the release of information on the whereabouts of 1 party or the child to another party against whom a protective order with respect to the former party or the child has been entered;*  
*(C) prohibitions against the release of information on the whereabouts of 1 party or the child to another person if the State has reason to believe that the release of the information to that person may result in physical or emotional harm to the party or the child. [FN2]*  
*(D) in cases in which the prohibitions under subparagraphs (B) and (C) apply, the requirement to notify the Secretary, for purposes of section 653(b)(2) of this title, that the State has reasonable evidence of domestic violence or child abuse against a party or the child and that the disclosure of such information could be harmful to the party or the child; and*  
*(E) procedures providing that when the Secretary discloses information about a parent or child to a State court or an agent of a State court described in section 653(c)(2) or 663(d)(2)(B) of this title, and advises that court or agent that the Secretary has been notified that there is reasonable evidence of domestic violence or child abuse pursuant to section 653(b)(2) of this title, the court shall determine whether disclosure to any other person of information received from the Secretary could be harmful to the parent or child and, if the court determines that disclosure to any other person could be harmful, the court and its agents shall not make any such disclosure; This method of sending combined notices was used to diminish the risk to a battered recipient whose abusive partner might see the domestic violence notice and think his partner had requested the information or disclosed domestic violence information.*

*to cooperate with child support enforcement. They couldn't find him for three years, but through a new automated process they find Manny and attach all his bank accounts. Manny calls Rita and threatens to fight for custody if he loses any money.*

### **3. Paternity establishment**

Establishing paternity can bring significant benefits to a child. It might mean the child's father will be more involved in the child's life in a positive way. It can also lead to child support, medical insurance and other essential assistance. However, sometimes paternity establishment can lead to complications that can harm the child and endanger the child's mother as well.

- A battered woman's abusive partner has repeatedly threatened that if she ever leaves him she'll never see her children again because he'll either snatch them or win custody. If paternity is established it will make it easier for him to carry out his threat.
- A battered woman fears identifying the father of her child, because he is not her current partner. Her current partner is extremely abusive and jealous and has acted as a father to her child. She knows her current partner will hurt her if she cooperates in establishing the biological father's paternity of the child.

### **Safely enforcing child support**

Given the importance of child support to children, it is essential that support be pursued whenever possible. Many battered mothers will want child support enforced, and some will not. If child support enforcement will increase a battered mother's or child's danger, current approaches generally force her to choose between two alternatives: 1) enforce the support and face the danger; or 2) do not enforce child support. In addition, battered mothers who need TANF assistance will need to ask for a good cause exception to the cooperation requirement. In order to meet the important goals of child support enforcement and to avoid "rewarding" batterers for their threats and violence, states might consider developing a third option - *safely enforcing child support*. This means that an enforcement strategy would be developed with the battered mother that would reduce the danger to her and the children.

#### **Examples include:**

- *Jeanette is afraid her child's father will find her if the state establishes paternity and enforces child support.*

CSE meets with Jeanette and together they develop a strategy that will keep her address from certain child support records. CSE also flags Jeanette's address in the state's database and reports this to the Federal Parent Locator Service. CSE takes the actions necessary to ensure that the child's father won't find out when and where Jeanette will give samples for the paternity test. Jeanette develops a safety plan for the child support hearings, at which she may have contact with her child's father.

- *Gwen is a year old. Her father Tony is an alcoholic and slaps Gwen if she cries. Gwen's mother Sema is afraid to ask for child support because she believes Tony will want visitation with Gwen.*

CSE meets with Sema to talk about her concerns. CSE agrees not to pursue child support while Sema seeks a court order protecting Gwen. They also give her the numbers of several agencies that might help her get such an order.

Developing such customized strategies may be difficult given the automation of enforcement currently underway. A key challenge is to develop a system that can pull particular cases out of the "assembly line" and pursue them individually.

## VII. Balancing Access to Help and Fraud Protection Concerns

As services and temporary relief provisions are put in place to enhance battered women's safety and self-sufficiency, some TANF/CSE administrators and others have expressed concern that those who do not need such help will try to obtain it by falsely "claiming they are battered." Fear of wholesale improper use of TANF/CSE domestic violence services and provisions have led some programs to establish very high legal standards, require extensive documentation of domestic violence, and limit information and notice about services and temporary relief available. Early statistics from current TANF/CSE domestic violence responses indicate that such fears may be unwarranted.

- **The Massachusetts experience:**

In November 1997, the Massachusetts' TANF program mailed notices about domestic violence waivers along with other general notices<sup>(13)</sup> to every TANF recipient, approximately 78,000 notices. From September 1997 to February 4, 1998, only 68 individuals requested a domestic violence waiver.

- **Findings from Denver, Colorado:**

Over 400 AFDC applicants completed brief questionnaires administered by Eligibility and Child Support Technicians associated with the Model Office Project at the Denver Department of Social Services. Ninety-four applicants (23%) claimed to be abused by the father of their child/ren. Fifty-one applicants (12%) agreed with the statement "If I try to get child support, my child's father will harm me." However, only 1% of the applicants actually submitted an application for good cause<sup>(14)</sup>. This study shows a low application rate for good cause exceptions, but also raises serious concerns about the applicants who thought they may be in danger but did not apply.

These results are preliminary and there is still a great deal to be learned about battered women using the TANF/CSE programs, including the types of responses they need, the best way to give battered women access to these responses, and the number of women in need of each response.

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13 This method of sending combined notices was used to diminish the risk to a battered recipient whose abusive partner might see the domestic violence notice and think his partner had requested the information or disclosed domestic violence information.

14 Pearson, J. and E. Griswold. 1997. Child Support Policies and Domestic Violence: A Preliminary Look at Client Experiences with Good Cause Exemptions to Child Support Cooperation Requirements. Center for Policy Research. Denver, Colorado.

However, procedures that "err" on the side of fraud protection over access may have unintended negative consequences. Fraud protections such as high legal standards and requiring extensive corroborating evidence can also "screen out" those who should be getting the help but can't meet the standards. For example, there are numerous reasons why poor battered women may not be able to produce specific documentation, including:

- the police did not make a report;
- the police report may not be legally available to her;
- she never called the police;
- she may not be able to afford the copying or other costs to get the records;
- the medical provider may not have recorded the cause of injury/ies or she may not have sought medical treatment;
- she is afraid her abusive partner will hurt her if he finds out she is going out to get the records;
- she can't get to the court, police department, health care facility to get the records because of transportation costs or time away from work;
- it takes many weeks for her documentation request to be filled and therefore she can't get the records in time;
- she has no court records because she couldn't afford an attorney and was afraid to take her abusive partner to court on her own; and
- she didn't understand what documentation the TANF/CSE worker wanted her to provide.

The stakes are very high for poor battered women who need domestic violence services or temporary relief and can not meet the standards. Therefore, it is important to balance fraud protection with providing meaningful access to help.

It is also important to remember that batterers sometimes coerce and threaten their partners into fraudulent activities. For example, he may threaten to hurt her if she tells the welfare office that she has a job because he doesn't want the amount of assistance to be reduced. In addition, some batterers give their partners money so they can use the threat of "turning them in" to further their control.

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