

# Models for Safe Child Support Enforcement

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## Introduction

Advocates have long been concerned about the risks involved in enforcing child support when the mother is a victim of domestic violence. They have viewed the State child support (“IV-D”) program as a system that mandates participation, yet sometimes places domestic violence victims in harm’s way. Understanding the potential risks involved in increasing contact, conflict, and retaliatory abuse by batterers, many advocates have focused on trying to make it easier for abused women to get out of the child support system.<sup>1</sup>

The traditional focus of many States has been on “making mothers tell” by tightening child support cooperation policies. Some agency staff have viewed the “good cause” exemption to cooperation as a loophole for custodial parents to avoid having to cooperate. While agency staff knew that some non-custodial parents were abusive, they often have failed to understand the prevalence, dynamics, or consequences of domestic violence.

Yet the reality is more complex. Many domestic violence victims need child support in order to survive financially. Often, abused women do not want “good cause” exemptions: they want effective child support enforcement.<sup>2</sup> Women who have experienced domestic violence are forced to weigh the safety risks of domestic violence against the economic risks of poverty.<sup>3</sup> When combined with her earnings, child support can make the difference between a woman remaining separated from an abusive partner and returning to him in order to support her children.<sup>4</sup> Many women will decide to actively pursue child support if they are convinced that their safety and confidentiality concerns will be adequately addressed by the system.

Other women will conclude that it is too risky to establish paternity or pursue child support for their children. The risks they face are very real. Many abused women have changed residences, moved out of state, or stayed in a battered women’s shelter to escape their abuser. Many women have been threatened with violence against their children, retaliatory custody claims, or child kidnapping. When faced with these risks, some women will do their best to try to avoid the child support system.<sup>5</sup>

In the past, the child support program has offered domestic violence victims only two options: to forgo child support altogether or to enter the general caseload.<sup>6</sup> We call these the “red light” and “green light” responses to child support enforcement. What is usually missing is a set of “yellow light” responses. “Yellow light” responses are procedures that identify women with domestic violence concerns and allow them the option to proceed cautiously. Abused women who are afraid to pursue child support should be given every opportunity to stay out of the child support system, but those who

want to pursue child support should be able to do so with greater safety and confidentiality.<sup>7</sup>

This paper addresses approaches and issues faced by state child support programs in creating safer responses for child support enforcement.<sup>8</sup> Specifically, we argue that States should develop flexible “opt out” and “stay in” policies and procedures that recognize and support the safety and economic decisions that women with domestic violence issues must make:

- The paper summarizes existing research about the role of economic resources and child support in the decisions made by victims of domestic violence.
- Next, the paper summarizes the provisions in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) of particular relevance to victims of domestic violence that provided the impetus for the collaborative efforts by HHS/Office of Child Support Enforcement (OCSE), state groups, and advocates to focus on the intersection of domestic violence and child support.
- Finally, the paper discusses State administrative approaches to safely enforcing child support, including (1) providing information to women, (2) exempting domestic violence victims from child support cooperation requirements, with a focus on “good cause” for non-cooperation under traditional child support standards and the Family Violence Option, (3) individualizing enforcement strategies, that is “yellow light” approaches for pursuing support; (4) increasing safety and confidentiality, with a focus on the family violence indicator and address confidentiality programs, and (5) providing cross-training to TANF and child support staff.

## Economic Resources, Child Support, and Domestic Violence

Economic dependence is one of the main reasons that women remain with or return to an abusive partner.<sup>9</sup> Abused women are often subject to financial control and isolation by their abusers.<sup>10</sup> In one study, more than half of domestic violence victims surveyed stayed with their abusive partner because they did not feel they could support themselves and their children. Another study of the exit plans of women leaving battered women's shelters found that access to an independent income, along with child care and transportation were primary considerations in deciding whether to return to their abusive partners.<sup>11</sup>

Many abused women with children are employed in low-wage jobs. Other women may enter the job market for the first time. For them, the problem may be the same as other low-income mothers: that a minimum wage job is not enough to support themselves and their children. Most single mothers live below or close to the poverty level. In order to survive financially, they must attempt to combine income from a variety of private and public sources, including child support.<sup>12</sup>

For other women, domestic violence is a major welfare-to-work barrier. Abusive partners often feel threatened by the women's efforts to become more financially independent, and actively sabotage the women's job training, education or employment activities. Violence and threats may escalate when an abused woman enrolls in job search programs or obtains a job, or when child support enforcement actions are initiated. Some women face difficulties maintaining and advancing in their jobs because of the short- and long-term effects of domestic violence on their physical and mental health.<sup>13</sup>

Many women use welfare benefits in their efforts to leave abusive situations.<sup>14</sup> Welfare provides a financial alternative to economic dependence on an abusive partner. Recent studies confirm the high level of domestic violence among the low-income families served by the welfare program. The studies establish rough benchmarks concerning the prevalence of domestic violence in the welfare caseload, finding that about 20 percent of women receiving AFDC were current victims of domestic violence, while about 40 to 60 percent experienced domestic violence during their adulthood.<sup>15</sup>

Time limits mean, however, that domestic violence victims will not necessarily be able to count on receiving welfare. Women who have "used up" their TANF eligibility may only have child support to fall back on. Even when a woman has earnings, child support income may be necessary in order for her to make ends meet.<sup>16</sup> In addition, many women are reluctant to allow their abusive partners to escape their financial obligations.<sup>17</sup>

On the other hand, child support enforcement can precipitate and escalate the violence. If a woman has gone into hiding, enforcement activities can alert the abuser to her location. Child support enforcement can be a direct source of increased contact and conflict between the parents, and also can trigger visitation and custody disputes and threats. In one study, about a third of abused women reported problems or arguments with a man about child support within previous year, a quarter reported problems or arguments about visitation, and about 15 percent reported problems or arguments about custody.<sup>18</sup> Other research indicates that a main fear of many women requesting a “good cause” exemption from child support cooperation is that the non-custodial parent will kidnap or pursue custody of the children.<sup>19</sup> Women also fear child protection agency involvement if they reveal family violence.<sup>20</sup>

The bottom line is that each domestic violence victim faces different risks and therefore has to balance her needs for safety and child support differently. There are no pat answers. Many abused women need and want to establish paternity and pursue child support. Other women decide that they cannot risk child support enforcement.

A series of Colorado Model Office studies conducted by Jessica Pearson and Esther Ann Griswold provides additional insight into the relationship between child support and domestic violence.<sup>21</sup> In the studies, custodial parents applying for AFDC in four counties were screened for domestic violence and asked whether they wanted to apply for a “good cause” exception from the requirement to cooperate with the child support program. Victims of domestic violence were interviewed in depth, good cause procedures were modified, and the case files of women who had applied for good cause were analyzed.

Generally consistent with other prevalence studies, the Pearson and Griswold studies found that 40 percent of AFDC applicants disclosed a history of domestic violence and 24 percent disclosed current abuse. Nearly three-quarters of the mothers identified as domestic violence victims in the Colorado studies reported that their abusers were the fathers of one or more of their children. Nearly half of these mothers reported that they were afraid of their children’s father.

Of the mothers reporting abuse by the father of her children, 81 percent reported being hit or beat up; 69 percent reported threats to harm or kill her; 58 percent reported that he had isolated her or the children; 57 percent reported that he followed her when she tried to leave; 44 percent reported that he had prevented her from working and 34 percent reported that he had threatened her with a weapon. Half placed the last beating within the last two years. While most victims reported that they had called the police, only 45 percent had obtained a restraining order.

However, only 6.7 percent of the mothers reporting domestic violence (and 2.7 percent of all AFDC applicants) said they would be interested in applying for a good cause exception. When mothers identified as domestic violence victims were asked why they did not want to pursue a good cause exception, over 90 percent of the mothers said they wanted child support. In addition, 51 percent said the father knew where she lived,

45 percent said they already had a child support order for him, and 40 percent said that there was no current danger. More than a third of the mothers who did not want to pursue a good cause exception said they did not want to do the paperwork for good cause, and a third said they did not have the documents to prove harm. Some women also reported that they received an insufficient or no explanation of good cause.

On the other hand, when mothers identified as domestic violence victims were asked why they wanted to pursue a good cause exception, most of the mothers indicated a threat of harm. Three-fourths of the mothers said he was dangerous and that child support would make it worse, 62 percent said that the father wanted to harm her, 55 percent said he wanted to take the children, and 34 percent said the father wanted to harm the children. Most of the mothers interested in pursuing a good cause exception also indicated that they had moved to avoid the father. Three-fourths of the mothers said she had changed residences, 55 percent had moved out of state, and 34 percent had stayed at a shelter. Ninety percent of mothers who wanted to claim good cause said they had documentation.

According to the study, a number of factors help predict whether a domestic violence victim wanted to claim good cause. The best predictor is whether the father threatened to harm the children. Additional factors include whether the father threatened to harm her; tried to isolate her; hit or beat her up; monitored her telephone calls; prevented her from working; abused her within the past six months; or caused her to call the police.

Despite the small number of women seeking a good cause exception from child support cooperation in the Colorado study, a disturbing number of women were turned down by the welfare agency. Two-thirds were denied a good cause exception even when they asked for it. Victims who apply for a good cause exception may have trouble producing the official records required to document a threat of harm. Often a restraining order or medical report was not accepted by the agency as proof of good cause, particularly when the documents lacked full detail.



## Welfare Reform and National Collaboration

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), made sweeping changes to the laws governing the cash assistance program administered under title IV-A of the Social Security Act. Most importantly, the 1996 legislation replaced the Aid to Families with Dependent Children (AFDC) program with the Temporary Assistance to Needy Families (TANF) program and imposed a lifetime eligibility limit on families receiving assistance. Under the 1996 legislation, TANF assistance is limited to 60 months, or less at state option.<sup>22</sup> The new law also requires states to impose tougher work requirements on TANF families.<sup>23</sup> PRWORA also provided for States to choose to implement a “Family Violence Option”<sup>24</sup> that would allow them to waive work and other requirements if certain preconditions were met.

At the same time, the new law made dramatic changes in the laws governing the child support enforcement program administered under title IV-D of the Social Security Act. The law requires the creation of new databases, strengthens child support enforcement, and pushes States to achieve a 90 percent paternity establishment standard or face financial penalties in the form of cuts to their TANF block grant funds.<sup>25</sup> The law also tightened the cooperation requirements for child support and added a new requirement that States flag individuals in their child support automated system when the States have “reasonable evidence” of domestic violence.

Concern about the possible impact of new PRWORA requirements on domestic violence victims, as well as research published about the same time showing a high incidence of domestic violence among welfare recipients, yet a high level of interest in pursuing child support by domestic violence victims, provided the impetus for OCSE to intensify its focus on domestic violence and its impact upon the lives of women attempting to obtain child support and become self-sufficient. A common thread running through this work was the concerted effort on the part of OCSE to engage important constituencies in conversations about domestic violence and child support enforcement, such as state child support and TANF administrators, domestic violence coalitions, anti-poverty advocates, fathers’ groups, judges, researchers, and child protective services staff, among others. Many of these constituent groups had never talked to one another before coming together to discuss domestic violence.

In the spring of 1997, OCSE held an expert forum to discuss issues surrounding child support cooperation and good cause.<sup>26</sup> The forum participants were invited to share current successful practices on domestic violence and cooperation and good cause and to specify areas where technical assistance, training, or policy guidance were needed. The forum participants identified a number of State innovations, which will be discussed later in this paper. Participants also identified barriers related to the implementation of new

PRWORA cooperation and good cause provisions, and identified a number of areas where technical assistance would be helpful. These are summarized in an attached Appendix.

In addition to the forum on cooperation and good cause, OCSE engaged in other activities related to domestic violence. In 1996, it expanded the Colorado Model Office project (discussed in the previous section) to include an examination on intake policies regarding cooperation and good cause. In fiscal year 1997, it awarded grants examining various aspects of cooperation and good cause, and domestic violence, to Massachusetts, Minnesota, Missouri, and New York. In the spring of 1998, OCSE held a meeting with the grantees to discuss issues and concerns they might be having while beginning their projects, and to share information. These projects are ongoing, and we hope they will provide us with information that will be helpful in shaping child support enforcement responses to domestic violence.

In 1997 and 1998, OCSE and the National Child Support Enforcement Association (NCSEA), with assistance from the National Resource Center on Domestic Violence, organized two national conferences on child support and domestic violence, one in Austin, Texas, in December 1997, and the second in Boston, Massachusetts, in June 1998. The planning group invited representatives from State child support and TANF agencies, domestic violence coalitions, advocacy groups, including advocates representing low-income fathers, law enforcement, and academics, to ensure that the participants had an opportunity to begin to learn each others' perspectives, languages, interests and concerns. The issue of domestic violence also was featured in a 1996 and 1997 series of OCSE-sponsored regional conferences on welfare reform attended by TANF, child support, childcare, Head Start, child welfare, Food Stamp, Medicaid, SSI, and developmental disabilities program administrators. In the fall of 1998, OCSE held a daylong meeting with a number of advocates to discuss the Federal Parent Locator Service (FLPS) and family violence indicator.

OCSE also issued a number of "Dear Colleague" letters and policy issuances to all of the State child support enforcement directors on a number of domestic violence related topics including cooperation and good cause,<sup>27</sup> the family violence indicator,<sup>28</sup> the National Resource Center on Domestic Violence practice papers developed through the Welfare and Domestic Violence Technical Assistance Initiative funded by HHS,<sup>29</sup> additional domestic violence resources, including the telephone numbers and addresses of domestic violence coalitions,<sup>30</sup> and the Washington State Address Confidentiality Program.<sup>31</sup>

## Safely Enforcing Child Support: Informing Abused Women

Today, about a quarter of the cases in the State child support program involves families who are currently receiving TANF assistance, while the remaining three-quarters involve families who are not on welfare. Custodial (and non-custodial parents) who do not receive TANF may apply for or withdraw from child support services on a voluntary basis.<sup>32</sup> While about half of the non-TANF families receive another form of public assistance, such as Medicaid, Food Stamps, SSI, or public housing, they do not specifically interact with the TANF program.<sup>33</sup> Although voluntary participants in the child support program, non-TANF families may have little opportunity to speak to a child support worker, little information about how the child support process works, and no information about their options to request address confidentiality or special case handling.

On the other hand, custodial parents receiving TANF benefits are mandatory participants in the child support program. As a condition of TANF eligibility, they must cooperate with the State child support program to establish their children's paternity and obtain child support and assign (turn over) to the state their rights to support as reimbursement for assistance. If a TANF recipient fails to cooperate without a "good cause" excuse, the family will be sanctioned. In some states, the custodial parent's failure to cooperate will mean that the entire family becomes ineligible for TANF benefits. In other states, the family's benefits will be cut by 25 percent or more.

Women on TANF who are at risk of harm because of domestic violence may request a good cause exception to the cooperation requirement. Under the old AFDC program, Federal regulations required State AFDC programs to give each applicant a good cause written notice. This standard notice used legal terms to advise applicants of the requirement to cooperate with the child support program, their right to claim a good cause exception to cooperation, and the need to provide evidence to support their good cause claim.<sup>34</sup>

Under the TANF program, States have the responsibility to figure out how to inform women about the good cause exception. New Federal TANF regulations do not prescribe specific notice requirements.<sup>35</sup> In practice, the responsibility for advising women about cooperation and good cause is often fragmented, with neither the TANF agency nor the child support agency doing an adequate job of informing women about the process.<sup>36</sup> Women typically receive notice only once, buried in a TANF application packet.<sup>37</sup> Often women do not get the full picture that they need to make decisions about whether they can risk cooperating with the child support program or whether they need to seek a good cause exception.

The setting in which women apply for TANF and receive a good cause explanation also hampers effective information sharing about the options available to domestic violence victims. Often the intake process involves group orientations, extensive paperwork, and multiple interviews. The interview cubicle may not be private. The caseworker may be overburdened, harried, and unskilled at working with domestic violence victims. The woman may have her children with her. The abusive partner may have accompanied her to the interview room.<sup>38</sup>

In many States, the child support intake for TANF recipients is handled entirely by the TANF eligibility worker. The woman's TANF worker may only have limited knowledge about the child support program. This means that the woman may get very little information about what she can expect from the child support process. In many States, the child support worker may only have limited client contact, and the TANF agency may not communicate domestic violence concerns to the child support agency.

In order to give women a better understanding of their alternatives and to give TANF and child support workers a better understanding of the risks and barriers facing women, it is important that simple and clear materials be developed and disseminated that explain how the child support system works.<sup>39</sup> TANF recipients should be given a direct and understandable statement of what they need to do in order to comply with child support cooperation requirements. They should be informed about their ability to disclose domestic violence and apply for a good cause exception. The information provided to women -- both TANF and non-TANF clients-- should explain the steps in the child support process, the role of the courts, and that their personal information will be included in state and federal databases. Women should be helped to understand the benefits and risks of paternity and child support enforcement, including the implications for custody and visitation. They should be informed about the safeguards available to them if they have been abused but want to pursue support.

Caseworkers discussing domestic violence must be adequately trained. If possible, a private space should be made available where women can speak openly and confidentially about their domestic violence concerns. The interview should not take place in front of their partners or children. Some jurisdictions have specific strategies for providing increased opportunities for women to disclose abuse privately. For example, in Maryland, the caseworker asks women to meet separately with a social worker to discuss women's health issues, while in Washington State, the caseworker can schedule a private appointment with a family planning worker.

Information about good cause and safety options should be offered repeatedly -- at TANF eligibility and re-determination reviews, before non-cooperation sanctions are imposed, upon referral to work activities, when women are interviewed by the child support agency, when TANF assistance is about to end, and when women apply for child support services voluntarily. If domestic violence has been raised as a concern, the child support worker should let the women know before instituting an enforcement action. Women should be able to stop child support enforcement as soon as the need arises.

Special care needs to be given to designing domestic violence notification, screening, assessment, and interviewing procedures. To ensure that disclosures of domestic violence are informed and voluntary, domestic violence advocates recommend either that universal notification or “screening for voluntary disclosure” be used.<sup>40</sup> If women are asked directly about domestic violence, they should not be forced to answer, but instead should be informed about their right to not comment without adverse consequences to their TANF eligibility. Identification and assessment questions should be the least intrusive possible.<sup>41</sup> Advocates should be consulted in developing forms, scripts, and procedures.<sup>42</sup> A number of universal notice, screening, and assessment instruments have been developed by the Colorado Model Office project,<sup>43</sup> Missouri, Kansas, New York, Oregon, Rhode Island, Washington State, and other States. In addition, the Manpower Demonstration Research Corporation (MDRC) has developed a computer domestic violence screening protocol.<sup>44</sup>

Women also should be provided with information about domestic violence resources within the community. The Colorado Model Office project and New York developed a simple “palm card” that includes a hotline telephone number. Other States post information in the women’s bathroom or provide information in other discrete ways. In addition, the child support agency should reach out to advocacy and maternal health organizations to inform them about child support and domestic violence procedures.

Mailings that contain domestic violence information should not be targeted to domestic violence victims, but instead should be mailed to the general TANF or child support caseload with a check or other items. In New York, staff members discuss with domestic violence victims the safest way to provide information and whether mailing the information home might endanger them. Notices and other information may be mailed to an alternate address, post office box, or held at the agency.

## Safely Enforcing Child Support: Opting out of the System

PRWORA contains two separate provisions for claiming a good cause exception to child support cooperation based on domestic violence:

- ***IV-D good cause exceptions.*** The first provision is contained in title IV-D of the Social Security Act, and specifically authorizes good cause and other exceptions from the TANF cooperation requirement. Traditionally, the title IV-D good cause exceptions were based on domestic violence, rape, incest, and adoption, and were granted by the AFDC agency for an indefinite time period. PRWORA amended the IV-D good cause exceptions to give the States wide latitude in defining good cause and other exceptions, setting notice requirements, evidentiary standards and time periods, and deciding which agency (the child support agency or the TANF agency) will determine good cause.
- ***FVO good cause waiver.*** The second provision is a new state option called the Family Violence Option enacted under PRWORA and contained in title IV-A of the Social Security Act. This provision authorizes States to implement a Family Violence Option procedure to identify domestic violence victims, refer them for services, and grant temporary good cause waivers from TANF requirements, including child support cooperation requirements.

On April 12, 1999, HHS issued TANF regulations interpreting the IV-D good cause exceptions and the FVO good cause waiver provisions.<sup>45</sup> Under the final rule, States that have chosen the Family Violence Option may waive cooperation with child support enforcement using either good cause procedure. States may decide either (1) to integrate their child support good cause procedure with their Family Violence Option waiver process, or (2) retain one good cause procedure for child support cooperation and another good cause procedure for all other TANF requirements, such as work requirements and time limits. Thus, States are allowed, but not required, to maintain dual standards for domestic violence exemptions from TANF requirements, treating child support cooperation differently from other TANF requirements. These provisions are described in more detail below.

### A. Cooperation and IV-D Good Cause Exceptions

PRWORA (along with the Balanced Budget Act of 1997) made several important changes affecting the traditional child support cooperation and good cause determinations.<sup>46</sup> First, the law transferred the authority to make the cooperation determination from the TANF agency to the child support (IV-D) agency. Under the AFDC program, the AFDC agency decided whether a recipient was cooperating with the

child support program. Under PRWORA, the child support agency must make the cooperation decision and the TANF agency must sanction the family if the child support agency decides that the woman is not cooperating.<sup>47</sup>

Second, PRWORA tightened the definition of child support “cooperation,” but still gives the State considerable leeway in deciding what constitutes “cooperation.” The statute states that TANF recipients are required to be “cooperating in good faith...by providing the State [child support] agency with the name of, and such other information as the State agency may require with respect to, the non-custodial parent.” In addition to providing information about their children’s father, TANF recipients are required to appear at interviews, hearings and legal proceedings and to submit to genetic tests.<sup>48</sup>

Third, PRWORA allows the State to determine which agency, the child support agency or the TANF agency,<sup>49</sup> will define and determine “good cause and other exceptions” for not cooperating with child support enforcement. Under the old AFDC law, a good cause claim based on domestic violence was quite restrictive, requiring evidence of anticipated physical or emotional harm to a child or to the custodial parent if the harm to the parent was “of such nature or degree that it reduces the person’s capacity to care for the child adequately.” Although this paper concentrates on the good cause exceptions based on domestic violence, good cause claims were also allowed for reasons other than domestic violence, including adoptions pending or under consideration, and when the child was conceived as a result of rape or incest. Traditionally, the AFDC agency made both the cooperation and good cause decisions. The good cause exceptions were typically not time-limited, so that women granted good cause stayed out of the child support system indefinitely, even if her circumstances changed.

Fourth, if an individual does not cooperate with paternity establishment and child support enforcement, and does not have “good cause” for failing to cooperate, the State must deny the family at least 25 percent of its public assistance grant, and may deny the family any assistance.<sup>50</sup> Under the old AFDC law, the penalty for non-cooperation was loss of AFDC eligibility for the woman (but not the children) and corresponding reduction of the grant amount.

OCSE and CLASP are conducting an ongoing review of state child support cooperation and good cause policies. This is a collaborative effort to identify state policy trends and best practices.<sup>51</sup> State-by-State charts are posted on the CLASP website and are in the process of being updated. The following trends in State policies and procedures have emerged:

***Absolute information requirement.*** Most States have in place a general requirement to cooperate or to cooperate in good faith as a condition of TANF eligibility. Very few States have adopted an absolute information requirement. A State has an absolute information requirement if custodial parents automatically lose TANF benefits when they fail to provide specific information about the identify of their children’s fathers. In other words, if the custodial parent says she does not know the father’s name, will she be will automatically sanctioned for non-cooperation or will she be given an opportunity to establish that she does not know?

**Information checklist policy.** About one-fourth of the States have adopted an information checklist policy. States adopting an information checklist policy require custodial parents to provide specified items of information about the noncustodial parent, such as his name, Social Security number, employment, or relatives' names, if the custodial parents have the information or can reasonably be expected to have it. In other words, an information checklist policy requires the custodial parent to provide specific paternity information, but allows her to demonstrate lack of knowledge. Some of these States permit the custodial parent to attest to the lack of information. Others set up more specific criteria for determining whether she reasonably should have the information, and still others require the custodial parent to explain their circumstances or otherwise allow the caseworker to determine whether the custodial parent has been diligent and forthcoming.

**Sanctions for non-cooperation.** States have adopted a range of sanctions for non-cooperation. About one third of States have adopted a 25 percent penalty against the family's TANF benefits (with a handful of States adopting another fixed penalty). Another third have adopted full-family sanctions, resulting in total ineligibility for TANF. Another third have adopted progressive sanctions. In adopting progressive sanctions, States have taken two basic approaches. The first approach is to increase the penalty amount with each occurrence of non-cooperation. The second approach is to lengthen the penalty period. A few States have integrated the cooperation requirement into a personal responsibility or self-sufficiency plan, which will subject custodial parents to combined progressive work and child support penalties.

**Definition of good cause.** Most States have retained the old Federal definition (or a similar version) of the good cause exception to cooperation-- physical or emotional harm to the custodial parent or child, incest, rape, or adoption pending or being considered. Some States have dropped the old Federal caveat that the harm to the custodial parent be severe enough to impair her capacity to care for the child. Some States have a more fully developed domestic violence exception. One State expressly includes retaliation as a basis for good cause, while another State includes child kidnapping. A few States included new exceptions to cooperation, including mental impairment, lack of information, and a deceitful non-custodial parent. Other States addressed no-show issues by adopting exceptions for lack of transportation and childcare, out-of-state travel, and lack of notice due to address problems. Evidentiary standards vary, with some states requiring official records, some states allowing third-party statements, and some States permitting client statements alone as sufficient corroboration of good cause.

**Responsibility for deciding good cause.** Most States have kept the good cause determination in the TANF agency. A few States have assigned joint responsibility for good cause decisions to the TANF and child support agency. A few States have moved the responsibility for good cause decisions to the child support agency.



## B. Good Cause Under Family Violence Option

PRWORA authorizes states to adopt procedures under a Family Violence Option<sup>52</sup> to screen and identify TANF recipients with a history of domestic violence, while maintaining confidentiality, and refer them to counseling and supportive services. The law permits states to waive TANF requirements for “good cause,” including time limits, work and residency requirements, family caps, and child support cooperation, if compliance would make it more difficult for women to escape domestic violence, unfairly penalize them, or at risk of further domestic violence.

Under rules promulgated by HHS, States have broad discretion to set standards and implement procedures for good cause waivers granted under the Family Violence Option. However, special rules apply when States are seeking Federal penalty relief under a “reasonable cause” exception for failing to TANF caseload work participation rates<sup>53</sup> or exceeding the 20 percent hardship exception to time limits.<sup>54</sup> States may ask HHS to take the good cause waivers into account only if they are “Federally recognized.” To be Federally recognized:

- The waiver may be granted “for as long as necessary,” but must be reassessed at least every six months. This is so the family gets periodic attention from the State agency, and is not left without services.
- The waiver may not be a blanket exemption from program requirements, but instead must identify the specific TANF requirements that are being waived based on an individualized assessment of need.
- A person trained in domestic violence must conduct the individualized assessment.
- The waiver must be accompanied by a service plan that is developed by a person trained in domestic violence and is designed to “lead to work,” consistent with safety and fairness. However, the preamble to the rule makes clear that safety and fairness may require postponement of work in order to recover from injuries, secure housing, help children adjust, receiving counseling, and attend to other personal and family needs.

As of April 1999, HHS reported that 27 States had formally certified in their TANF State plans that they would choose to implement the Family Violence Option, 18 States had some other discussion of family violence in their TANF State plans, and 9 States had no discussion of family violence in their State plans.<sup>55</sup>

### C. Good Cause Models

Many States implementing the Family Violence Option have left their traditional IV-D good cause procedures in place. This means that a State may operate with dual standards for granting a good cause exemption from child support cooperation. In some States, a domestic violence victim receiving TANF can apply for good cause using either route. In other States, domestic violence specialists decide whether to grant a good cause waiver from every other TANF requirement except child support cooperation, while a good cause exception from child support cooperation is decided by a TANF line worker or supervisor, child support staff, or committee. Usually these decision-makers have no expertise in domestic violence.

Unless States integrate, or at least coordinate, their separate good cause standards under the child support program and Family Violence Option, they run the risk of inconsistent good cause determinations, confused clients and workers, and duplicative efforts. For example, domestic violence victims may be granted good cause for child support non-cooperation under the family violence standard, but not the child support standard. In the preamble to the TANF regulations, HHS encouraged States to coordinate their good cause procedures, stating:

Although a separate section of the Act authorizes waivers under the FVO for victims of domestic violence, the purpose of these waivers and the regular good cause exceptions from child support cooperation are similar, i.e., to protect families that face special risks from inappropriate requirements and sanctions. We encourage States to establish an administratively efficient process to coordinate these two determinations. Coordinating them should help States minimize duplication of effort, avoid confusions and jurisdictional problems, and treat families in similar circumstances consistently.<sup>56</sup>

At least five organizational models have begun to emerge as States decide how to structure and harmonize their “good cause” determinations under the child support program and Family Violence Option: (1) an integrated Family Violence Option model; (2) a self-contained child support model; (3) a TANF-child support team model; (4) an advocate contract model; and (5) a judicial-child support intake model. While no State is fully representative of the organizational models described below, we list examples of states that have adopted elements of these models. HHS has funded four demonstration projects in Massachusetts, Minnesota, Missouri, and New York to test the different models of cooperation and good cause and child support intake procedures.

Each model has its strengths and weaknesses.<sup>57</sup> The best way to structure the child support good cause decision-making process depends in large part on which agency has the most capacity –in terms of client contact, vision, management commitment, staffing, training, and resource levels --to take on the task of increasing protections for domestic violence victims. In deciding how to proceed, it is crucial that State child support and TANF administrators form a working group with domestic violence advocates to sort out the complex implementation issues involved.

**(1) Integrated Family Violence Option model.** States using this model have integrated their traditional child support good cause procedure with their new Family Violence Option process. A TANF eligibility worker screens women for voluntary disclosure of domestic violence. If a woman raises domestic violence concerns, she is referred for assessment by a domestic violence unit located within the TANF agency. The domestic violence specialist evaluates the family's ability to participate in work activities, child support cooperation and other TANF requirements, and can grant temporary waivers. States implementing this approach include Delaware, Missouri, New York, Washington State, and Anne Arundel County, Maryland.

The main advantages of this approach are that:

- Domestic violence resources are consolidated in one place;
- Women are assessed by a person trained in domestic violence;
- Women are assessed only once;
- The assessment can focus on a broader set of self-sufficiency needs;
- Decision-making is more consistent;
- If a woman is granted "good cause," her case is not transmitted to the child support system.

The main disadvantages are that:

- Only women receiving TANF are assessed, while non-TANF and former TANF clients in the child support program will not be reached;
- Women may not get the information they need about the child support process and the potential risks and benefits;
- The child support agency may be isolated from the domestic violence "conversation," and therefore less responsive to policy developments.

**(2) Self-contained child support model.** This model would move the entire child support intake process in-house. Child support workers, not TANF workers, conduct the child support intake process, routinely interviewing custodial parents about paternity information and domestic violence concerns. The child support agency has domestic violence specialists on staff to handle "good cause" exemptions from cooperation and may be better positioned to provide options for "yellow light" case handling. State child support agencies that conduct the intake process and decide good cause include New Jersey and Washington, DC.

The main advantages of this approach are that:

- All child support clients, not just TANF recipients, have access to domestic violence services;
- Women get better information about the child support process;
- Women are asked better questions about the location of the father and may be sanctioned less often for non-cooperation;

- The child support agency develops greater expertise in domestic violence issues.

The main disadvantages are that:

- Women may or may not be assessed by a domestic violence specialist;
- Information reported to the TANF or employment agency may not reach the child support agency;
- Child support “good cause” decisions may be inconsistent with (and possibly less individualized than) TANF decisions;
- Domestic violence resources are duplicated or fragmented among different agencies;
- “Good cause” cases are more difficult to “wall off” of enforcement activity;
- The child support agency may not have supervisors with social work training.

**(3) TANF-child support team model.** This model works best when TANF and child support workers are co-located, use video-conferencing or otherwise have an easy means to communicate. A TANF worker and a child support worker jointly conduct the initial intake interview. If a domestic violence issue is raised, TANF and child support workers hold a joint case conference and make a joint “good cause” decision. Oregon uses a team approach, while Minnesota uses a joint “good cause” committee and Massachusetts has domestic violence liaisons at each agency and is starting a “case conferencing” initiative where joint staff follow up on cases when there is not enough information for the child support agency to proceed with a case.

The main advantages to this approach include:

- A team approach can allow for more thorough interviews and decision-making;
- Women get better information about TANF and child support;
- Women are asked better questions about the location of the father and may be sanctioned less often for non-cooperation;
- Women can address TANF and child support program requirements in a “one-stop shopping” setting;
- TANF and child support programs are better coordinated;
- TANF and child support agencies develop joint expertise in domestic violence issues.

The main disadvantages are:

- Women are not assessed by a domestic violence specialist;
- A team approach is more resource-intensive and involves some duplication of resources
- Women have to tell their story to more people.

**(4) Advocate contract model.** This model relies on the purchase of outside domestic violence services. The TANF and/or child support agency contracts with local domestic violence programs to assess women raising domestic violence concerns during intake. Advocates can be housed in the public agency office. Domestic violence advocates meet with the women, conduct an assessment for “good cause” under the Family Violence Option, the child support program, or both, make recommendations to the agency, and provide counseling and other services. States that use this approach for child support good cause decisions include Rhode Island, Idaho, and Topeka, Kansas.

The main advantages are that:

- Women are assessed by expert advocates;
- Women are linked to comprehensive services;
- Women may get better information and advice;
- Agency staff need less training and may have fewer misgivings about their ability to handle the issues.
- 

The main disadvantages are:

- Local domestic violence program resources may be further strained;
- Advocates may perceive a role conflict between their responsibility to the woman and their obligation to the agency;
- Women may get less accurate information about the child support process.

**(5) Judicial-child support intake model.** This model establishes a strong interface between the courts and child support offices. While not strictly a good cause model, the child support office can build on a judicial interface, offering “yellow light” services to clients referred by the court. Such an approach needs to be combined with a TANF-child support procedure for establishing good cause.

Domestic violence victims who petition for a protective order, are party to a divorce, or are the subject of a criminal proceeding are routinely referred to an attorney or intake worker employed by the child support program. The child support staff can be co-located with the court. If the woman wants to pursue child support, a child support order is requested during the domestic violence proceeding. The order is enforced by the child support agency, backed by judicial contempt proceedings. The District of Columbia is an example of a jurisdiction with a strong judicial-child support interface.<sup>58</sup>

The main advantages of this model are that:

- The child support case is handled in a domestic violence context;
- Women may or may not be assessed by a domestic violence specialist;
- Non-custodial parents show up for the hearing;
- The child support order is entered faster;
- The court addresses both her safety and economic needs;
- The child support order is entered as a permanent, guidelines-based order.

The main disadvantages are that:

- Women may or may not be assessed by a domestic violence specialist;
- Women who are not involved in a domestic violence proceeding do not receive the services.
- The needs of domestic violence victims who receive TANF and are required to cooperate with the child support program are not addressed.

#### **D. Other “Good Cause” Best Practices<sup>59</sup>**

- The research supports the conclusion that “good cause” requests should be granted with a minimal amount of documentation.<sup>60</sup> The woman’s affidavit, if credible, should be sufficient to substantiate the request.
- A non-custodial parent should never be contacted to substantiate a woman’s good cause claim.
- A good cause request should halt the child support process. Paternity and child support should not be pursued while a good cause request is pending or granted. If a good cause request is determined by the TANF agency, the case should not be referred to the child support agency until the request is resolved.
- All cases in which good cause is granted should be periodically reviewed to determine whether the situation has changed and the woman now thinks it would be safe to pursue child support.
- Even if the good cause request is denied, the child support agency should consult with the woman to determine whether an individualized enforcement plan should be developed.

## Safely Enforcing Child Support: “Yellow Light” Services

While it is critical that States develop procedures that allow women with domestic violence concerns to “opt out” of the child support system, it is also important that State child support programs develop the capacity to enforce support more safely and confidentially for domestic violence victims who want and need to proceed with child support enforcement. Developing this capacity involves a real commitment on the part of the State. Individualized case handling runs against the current grain of the child support program. The child support program is moving toward a highly automated, computer-driven model, with limited resources and caseworker involvement. On average, a child support worker handles over 1000 cases at a time.

Yet a number of State child support programs have expressed an interest in how to provide better safeguards and options for domestic violence victims. Key components of safer child support enforcement include: (1) specialized domestic violence staff; (2) individualized case management and enforcement plans, (3) client participation in decision-making; (4) notice to domestic violence victims before taking establishment and enforcement actions; (5) the ability to use enforcement tools selectively, (6) safety and confidentiality procedures; and (7) the ability to stop the enforcement process at any point.

While the availability of “yellow light” options is still very limited, a number of States, including Alaska, Colorado, Connecticut, Delaware, Florida, Hawaii, Idaho, Minnesota, Mississippi, Missouri, Montana, New Jersey, Oklahoma, Utah, and Vermont<sup>61</sup> reported that they have heightened address confidentiality procedures to help protect women who are afraid that the batterer will track her down through the child support process. Confidentiality and safety procedures are discussed in the next section. Other States, including Colorado, Florida, Kentucky, Minnesota, Mississippi, Nebraska, New Jersey, and Vermont,<sup>62</sup> reported that they have special domestic violence protocols within their child support programs. Still other States, such as Kansas, Ohio, and Texas,<sup>63</sup> reported that they allow for greater caseworker discretion when safety issues are involved.

A handful of States, including Connecticut, Delaware, Oregon, Washington State, and Wisconsin reported that they offer some alternative case processing options to women. For example, Oregon and Washington State identify three levels of family violence service options. In Connecticut, a child support worker talks with the client with the client and attempts to work out a safe plan for proceeding. In Delaware, a child support worker “shepherds” the case through the system, and income withholding is the only enforcement mechanism used. In Wisconsin, the worker is expected to select

enforcement actions that factor in safety risks.<sup>64</sup> An Appendix describing these State practices is attached.

There are no hard and fast rules about which enforcement tools should be used when domestic violence is an issue. All enforcement strategies raise safety concerns. Decisions about enforcement strategies involve trade-offs between effective enforcement and individual safety risks. That is why on-going communication with the woman and her direct participation in developing enforcement plans are so important.

However, some domestic violence experts believe that strategies involving routine enforcement may be relatively safer than strategies creating potential “flashpoints.” For example, income withholding may be safer than one-time asset seizures. Since the employer automatically collects the support payment from every paycheck, the abuser’s ability to coerce the victim, control the victim’s life through late payments, or create pretenses for contact are significantly undermined. Further, enforcement through income withholding reduces the need for civil contempt hearings that require both parties to appear.<sup>65</sup> In addition, the State disbursement unit will help reduce abuser contact and manipulation of child support payments by operating as a neutral intermediary that keeps accurate payment records and monitors late payments.

In addition, some tension may be created between individualized case strategies and Federal policies that mandate across-the-board case enforcement activities.<sup>66</sup> For example, income withholding, Federal tax offset, and credit bureau reporting, are required enforcement activities in all eligible cases under current Federal policy. This issue would benefit from additional clarification and discussion.



## Safely Enforcing Child Support: Confidentiality and Safety

For many years before welfare reform, Federal statutory and regulatory provisions on safeguarding of information have required States to have provisions in place preventing the release of information except in specified situations.<sup>67</sup> PRWORA amended this safeguarding of information language to add a new prohibition on a State's release of information to an individual on the whereabouts of a party or child where there is a protective order in place against the individual, or where States have reason to believe that the release of the information could result in physical or emotional harm to the party or child. In addition, States are required to notify HHS when there is reasonable evidence of domestic violence or child abuse through a family violence indicator placed on the individual.<sup>68</sup> When the indicator is placed on an individual's files, information may not be released without a judicial order overriding the indicator. In addition to these enhanced protections, a number of States are enacting address confidentiality programs and other safety and confidentiality measures to protect domestic violence victims.

### A. Family Violence Indicator

A key strategy in improving child support enforcement is the development of new and expanded Federal and State databases. PRWORA requires the creation of linked federal and state databases, which will match information on child support orders<sup>69</sup> with information on newly hired employees.<sup>70</sup> Database matching also allows for automated enforcement of child support orders, such as seeking and attaching assets of delinquent obligors.

Under the new law, states are required to exchange data with the Federal Parental Locator Services (FPLS). The FPLS, administered by the Office of Child Support Enforcement, matches State and Federal case registry data, new hire data, and data from a variety of other sources for child support and child custody purposes. To the extent that automation helps enforce proper court orders, they will be a great benefit to families. However, the challenge for the child support and domestic violence communities is to ensure that the databases are secure enough so that abusers are unable to penetrate their safeguards to locate abused women and children.

Under PRWORA, States are required to have general safeguards against unauthorized use or disclosure of information relating to paternity, child support, and child custody proceedings. In addition, the law specifically prohibits States from releasing information on the whereabouts of an individual or child to the respondent of a protective order. The new law also prohibits the release of information if the State has reason to believe that the release may result in physical or emotional harm to the

individual or child.<sup>71</sup> As discussed in the “yellow light” section above, a number of States have adopted address confidentiality protocols for domestic violence victims.

Many States have protective order registries, but they are in various stages of development; for example, not all of them are kept up to date, and not all of them are currently automated.<sup>72</sup> According to data collected in 1995 by the Pennsylvania Coalition against Domestic Violence, at least seven States indicated that they had operational protective order databases (Florida, Kentucky, Maryland, Massachusetts, New Hampshire, Texas and Utah).<sup>73</sup> Massachusetts’ database, the nation’s first statewide, centrally computerized domestic violence record-keeping system, went online in 1992. Massachusetts also has established an automated interface to match the child support caseload against the protection order registry to provide the State with information about cases that require a family violence indicator.<sup>74</sup>

Several other States have authorizing legislation and are in the process of implementing a protective order database. Some States reported locating the database within the courts, while other States were locating the database within the law enforcement network. In Pennsylvania, the database is operated by the state domestic violence coalition. In addition, a few States are developing an interface with the State’s child protection registry.

The Violence Against Women Act of 1994 (VAWA) required States to give full faith and credit to protection orders issued by other States,<sup>75</sup> but unfortunately, most child support workers may not be familiar with VAWA or this provision, and may require abused women to seek an in-state protection order as evidentiary proof before placing a family violence indicator on their information, or granting their request for a good cause exception. This is an area in which the child support and domestic violence communities could work together to provide information to child support enforcement agencies about VAWA, and giving protection orders from other States full faith and credit.

PRWORA also imposes an additional layer of confidentiality on the disclosure of information at the Federal level when domestic violence or child abuse is an issue. The law includes a provision creating the family violence indicator for data exchanged through the FPLS.<sup>76</sup> If State has reasonable evidence of domestic violence or child abuse against an individual or child, and disclosure of information could be harmful to them, States are required to “flag” or place a family violence indicator on the individual before submitting the information to the FPLS.<sup>77</sup> Flags are placed on the individual (which may be an adult or child), not the case. This means that if the domestic violence victim’s address is to receive protection, related children also should be separately flagged.

The new law specifically contemplates a judicial process to review and make the determination to disclose FPLS data concerning a victim of family violence. Ordinarily, specified FPLS data may be disclosed only to “authorized persons” requesting the information for an “authorized purpose.”<sup>78</sup> “Authorized purposes” are limited to (1)

establishing parentage, establishing, setting the amount of, modifying, or enforcing child support obligations, and (2) making or enforcing child custody or visitation orders. For child support purposes, “authorized persons” include the court with authority over child support, the child support program, a resident parent or child, or a state child welfare agency.<sup>79</sup> For child custody purposes, “authorized persons” include a court with jurisdiction to make or enforce child custody or visitation orders, a state attorney or agent with authority to enforce such an order, or a U.S. or state attorney or agent with the authority to investigate or prosecute a parental kidnapping charge. Unlike child support information, child custody information may not be released directly to a parent or parent’s attorney or agent, but may only be released to an appropriate court or public employee. The specific information that can be disclosed for each purpose differs.<sup>80</sup>

However, when a State has reasonable evidence of domestic violence and places a family violence indicator on the individual or child, information about the individual or child may not be released by the FPLS for any purpose, including a child visitation or custody action, unless the very specific procedures for a judicial override, described below, are followed.

Sometimes a court issues mutual protection orders against both the abuser and the victim in a domestic violence proceeding. If the child support agency puts a flag on both parents, the FPLS may not release information about either parent. The placement of mutual flags in the case will impair interstate enforcement activities, preventing the victim from pursuing support.

OCSE recently examined State plans to use the family violence indicator including: State criteria used for flagging cases, methods used to obtain family violence information, the impact of the indicator on State activity, time periods and removal of the indicator, and computer screen formats. State responses are summarized below. In addition, OCSE reviewed judicial override procedures, discussed in the next section.<sup>81</sup>

***Criteria used for flagging cases.*** Most responding states will place a flag on an individual if there is one or more of the following criteria: (1) a protective order, (2) a good cause claim, or (3) a self-report. Some states, such as Iowa and Massachusetts, will flag individuals with out-of-state protective orders and good cause determinations. A few states, such as Minnesota, will permit the flag to remain on the individual even if the good cause claim is denied. Some States require corroborating evidence for a self-report, while others, such as Montana, permit an oral or written request from the victim. Virginia accepts a simple affidavit from the victim. Other State bases for flagging an individual include: (4) caseworker knowledge or threatening behavior known to the child support agency, (5) information reported by TANF case workers, (6) domestic violence waivers granted under the Family Violence Option, (7) court nondisclosure orders or orders dismissing disclosure requests, (8) domestic violence reported by clerks of court, (9) domestic violence information gathered by the courts in all divorce cases, (10) founded child protection reports, and (10) participation in address confidentiality programs. At least two States decided the safest course was to place an indicator on all

custodial parents in the initial data submission to the FPLS, and then conduct a case-by-case review to remove the indicator.

***Obtaining information about domestic violence.*** Responding States said they obtained information about domestic violence primarily from self-reports. Some States said they obtained information from the TANF agency, courts, or protective order database, that the child support intake form included questions about domestic violence, or that child support caseworkers became aware of domestic violence in handling the case.

***Impact of the FVI on State activity.*** Responding States use the family violence indicator for a number of different purposes. Some States simply report the indicator to the FPLS. Some States use the flag as an indicator of good cause and stop case processing. Other States use the flag to tell caseworkers that the custodial parent's address should be shielded or blocked on out-going documents. Some States use the flag for internal security, restricting file access to the worker and supervisor. A few States refer individuals with flagged cases to domestic violence services. As described in the "yellow light" discussion above, a few States permit child support caseworker discretion when safety issues are involved, while a handful of other States offer additional case processing options. These services are discussed in an earlier section.

***Time periods and removal.*** Most States keep the flag on the woman's case until she requests removal. In several other States, the flag expires when the protective order, good cause status, or participation in address confidentiality programs ends. In Massachusetts, the flag expires after two years, subject to renewal, while in Washington State and Delaware, there are different time periods and/or levels of protection depending upon the circumstances. In Texas, only a staff manager can remove the flag.

***Computer screens.*** Alerts to warn caseworkers about case flags used by States such as New Hampshire, Texas, Washington, and Wisconsin include yes-no prompts, multiple screen codes, pop-up banners, and red print headers.

## **B. Judicial Override**

If the state has flagged an individual for family violence, the FPLS will not disclose the information when requested by an "authorized person." Instead the new law requires states to develop and use a judicial override mechanism to disclose flagged FPLS data. The judicial by-pass process works as follows.

When an "authorized person" requests information about an individual who is flagged with a family violence indicator, the FPLS will notify the State Parent Locator Service (operated by the State child support program) that there is reasonable evidence of domestic violence or child abuse. The State Parent Locator Service then notifies the "authorized person" that disclosure is prohibited and that the information can only be

disclosed by a court with jurisdiction over child support or child custody matters. Upon notification from the State Parent Locator Service that disclosure is prohibited, the “authorized person” may petition a proper State court to order release of the information. If the court determines that the information would not cause the individual harm, it may release the information to the “authorized person.” However, if the court determines that “disclosure could be harmful” to the individual, the court may not disclose the information to anyone.<sup>82</sup>

The FPLS procedure assumes a meaningful case-by-case judicial determination about the risk of harm before information can be disclosed about the whereabouts of the individual or child. However, a meaningful determination cannot be made unless the State puts mechanisms in place to ensure that the court has relevant information about the nature of the violence and the risk of harm. Implementation of the judicial override procedure requires careful coordination among the court, the child support agencies of the States involved, and the parties.<sup>83</sup>

According to the OCSE review conducted on the family violence indicator, few States have adopted policy or procedures governing the judicial override process.<sup>84</sup> However, two States, Iowa and Massachusetts, are in the process of implementing judicial override procedures, while New York has legislation pending. Iowa’s statute sets out a collaborative process between the child support agency and the courts to review requests for release of information protected by a family violence indicator. While the Iowa process requires the child support agency to notify the protected individual, the Massachusetts statute places the responsibility with the court to notify the individual. An outline of the procedures used by Iowa and Massachusetts is attached to this paper as an Appendix.

### **C. Address Confidentiality**

The Washington State Address Confidentiality Program (ACP) began in 1991 and is operated out of the Secretary of State’s office. There is no fee for participating in the program, and no corroborative evidence of domestic violence required by women wishing to participate in it, but survivors of domestic violence must have left their abuser, and their abuser cannot be aware of their new location. Prospective participants in the ACP complete applications in person at community-based victims’ assistance programs. They then meet with a victims’ assistance counselor and receive an orientation on the ACP program. The goal of the ACP is to help domestic violence victims who have permanently left their abusers to keep their new location secret.

Participants in the ACP are provided substitute addresses with street address, an ACP identification code, a post office box number, a city in Washington State and a zip code that have no correlation to their actual addresses. The participants’ first class mail is then forwarded to the ACP post office box, which in turn forwards it to them. For obvious safety reasons ACP participants cannot receive packages through the ACP. Participants are also provided with ACP identification cards that they use to apply for government services, including child support enforcement.

Several limitations on the ACP are that it only operates intrastate, and Federal agencies and private companies do not have to accept the substitute address, but there is anecdotal evidence that they often do. The ACP is generally prohibited from releasing information on participants, but can release information on participants who are also criminal parolees. The program's director has indicated that she views it as one tool, to help battered women, but one that must be combined with others such as safety planning and counseling to be the most effective.<sup>85</sup>

In the last several years, a number of other States have enacted Address Confidentiality legislation to replicate Washington's program. These States include: Arizona (voter registration only), California, Florida, Nevada, New Jersey, and Rhode Island. Pennsylvania is considering address confidentiality legislation, while Massachusetts has address confidentiality legislation pending. Early in 1999, all of the States that have enacted address confidentiality legislation held a teleconference for the first time, to help resolve problems in the initial phases of their programs and share ideas for successful operation of their programs.

#### **D. UIFSA Section 312**

In PRWORA, Congress mandated that all States enact the Uniform Interstate Family Support Act<sup>86</sup> (UIFSA) as a way to help streamline and promote uniformity in interstate child support case processing. UIFSA began as a model law that the National Conference of Commissioners on Uniform State Laws drafted to ameliorate some of the existing problems in interstate child support case processing, including multiple, inconsistent orders in a given case.<sup>87</sup> Because approximately 25 percent of the nationwide child support cases are interstate cases, and because these cases are often the most difficult to enforce, UIFSA has particular resonance with State child support enforcement agencies.<sup>88</sup>

Section 312 of UIFSA is entitled "Nondisclosure of Information in Exceptional Circumstances." The section essentially acts as an exception to the general rule in UIFSA that requires the parties' addresses and other information on all documents<sup>89</sup> so that the interstate system can locate the correct individual in a "pool of millions."<sup>90</sup> There was also discussion among the UIFSA drafters that requiring such information put the parties on equal footing and helped to balance the equities: for example, if there are no safety concerns, the non-custodial parent has reasonable access rights to his children.<sup>91</sup> Section 312 allows a tribunal<sup>92</sup> to order that the address of a child or other party in the case not be disclosed in a pleading or other document filed in a UIFSA proceeding, if a tribunal has made a finding that the health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of the information.<sup>93</sup>

Section 312 of UIFSA is important in its recognition of the need for address protection in some case. However, for child support workers, who often have over 1000 cases per worker, the requirement that a tribunal order must be obtained before they can withhold a woman and child's address, can be an onerous burden. Furthermore, it is not

clear how this requirement accords with the State prohibition against releasing address information if the State has reason to believe that release may result in harm. Anecdotal evidence indicates that some child support workers are withholding address information without getting a tribunal order or using the address of the child support agency as a substitute address when they are concerned about the safety of one of the parties in an interstate case. One suggestion that has been made is to define the child support agency as a “tribunal” for purposes of nondisclosure orders under section 312.<sup>94</sup>

### **E. Other Safety and Confidentiality Best Practices<sup>95</sup>**

- If a domestic violence victim wishes to proceed, she should be informed every time a step is taken on the case (e.g. papers are served, an interview is scheduled), which will help her design and implement an effective safety plan.
- Child support enforcement should be halted quickly if the violence resumes or escalates.
- The child support agency should flag information about all domestic violence victims at risk of harm if their location is disclosed. However, the agency needs to strike a balance. If the agency overuses the flags, the flags will likely lose their significance for the courts and judicial disclosures may become rote.
- Available information about the conditions of protection orders entered into the file. Computer and paper files should be maintained securely. The victim’s address should be blocked on all pleadings and correspondence.
- States should adopt policies that minimize or eliminate any face-to-face contact between the domestic violence victim and her abuser. If court or agency appearances are scheduled, the victim should be required to attend only if absolutely necessary. Protection should be offered when face-to-face encounters are unavoidable. The victim and her abuser should not be left alone if she considers that to be dangerous, and she should be provided with the option of leaving the building at a different time and through a different exit.
- States should enhance communication between child support offices and the courts, through co-location of staff, attendance of dedicated child support enforcement staff at domestic violence hearings, computer linkages, coordinated enforcement of orders, and joint work groups. The child support agency and courts should develop a referral relationship, so that domestic violence victims can be referred from the child support program to the courts if they want a protective order, and from the courts to the child support program for child support services.
- Courts should explore mechanisms to address child support within the context of domestic violence proceedings, particularly protection order hearings, and other civil and criminal proceedings in which domestic violence or child abuse concerns have been raised (e.g., through the use of linked docket numbers, consolidation of dockets, unified court structures, or specialized courts.) Courts should check existing databases to avoid the entry of inconsistent and duplicative child support orders.
- If consent orders or mediation are used during any part of the child support process, safeguards should be in place to ensure the safety of the domestic violence victim and to permit the parties to meet with the mediator separately if requested. The court and

agency should guard against pressure to trade away a support order in exchange for other benefits.

- If a visitation order is in place, arrangements should be made for safe drop-off and pick-up of children.



## Safely Enforcing Child Support: Cross-Training

State child support managers struggle with how to allocate their limited training resources. In considering where to put domestic violence training dollars, managers sometimes face a dilemma about whether to train “wide” or to train “deep,” that is whether to train all staff less intensively or fewer staff more intensively. The best advice is to do both.

Basic training should be mandated for the entire staff. All child support staff who come in contact with women who are domestic violence victims should receive training in identifying and discussing domestic violence issues with custodial parents. The training should be repeated regularly, given the high staff turnover of most child support offices. To facilitate consistent implementation of domestic violence policies and procedures, basic training should include supervisors and managers. According to the Taylor Institute, State child support programs providing at least some basic domestic violence training to all staff include Connecticut, Delaware, Maryland, Massachusetts, New York, and Rhode Island.<sup>96</sup>

However, basic training will not make experts out of the staff. Instead, the goal should be to increase awareness of domestic violence issues and resources, staff comfort levels about their specific role and responsibilities, and client interviewing skills. Training should be to policy, protocol, and job task. Training should be placed in context for workers, concretely focused on agency messages, procedures, and activities. Three well-regarded training curricula include those used by Anne Arundel County, Maryland, New York, and Rhode Island.

Developing cross-agency training sessions -- including child support staff, TANF staff, and domestic violence advocates--are particularly effective in helping staff surface the issues, think through the cross-agency interfaces, and develop cross-agency working relationships. Two States that provide cross-training to child support and TANF staff include Maine and Iowa.<sup>97</sup>

Managers should work with domestic violence advocates to make sure that the training content is appropriate. In addition, they should be prepared for workers who come forward and disclose personal experiences as domestic violence victims that could make the training session difficult for them to participate in or could even impact their ability to handle cases involving domestic violence.

The child support program also should train “deep,” that is, they should train or hire at least a few staff with expertise in domestic violence --or contract out for domestic violence advocates--who can serve as “point persons” and help line workers deal with

cases involving domestic violence. If the child support agency offers “yellow light” services, it should consider implementing a specially trained case management unit.<sup>98</sup>

OCSE is currently in the process of developing a computer-based training curriculum focusing on domestic violence and the family violence indicator process, that will be disseminated to all States, and that should help to reduce the cost to States of providing periodic domestic violence training.

## Conclusion

Each domestic violence victim faces different risks and must balance her needs for safety and child support in different ways. Working with domestic violence victims can be complex. Options that may work for some women will increase danger for others. In some cases, determining what a domestic violence victim needs will be as simple as asking her. In other cases, women may need help exploring their risks and options.

This paper recommends that State child support programs increase the child support service options for domestic violence victims. Specifically, States should provide (1) full information to women; (2) flexible opt-out procedures for women who need and want to claim a good cause exemption from child support cooperation, (3) individualized “yellow light” procedures for women who need and want to pursue child support, (4) enhanced safety and confidentiality procedures, and (5) cross-training on domestic violence for TANF and child support staff. By increasing the options for safely enforcing child support, domestic violence victims will be better able to balance their needs for safety and self-sufficiency.

## Appendix 1 HHS Cooperation/Good Cause Forum Summary

### Summary of State Innovations or “Best Practices” from Cooperation/Good Cause Forum

- Washington State Address Confidentiality Program
- Washington State Two-Tier Case Processing Approach
- District of Columbia Unified Court System
- Maryland Domestic Violence Training and Co-Location of Services
- Massachusetts Domestic Violence Case Registry
- Illinois Child Support/Domestic Violence Case Assessment

### Summary of Barriers to Implementing New Cooperation/Good Cause Provisions

- Lack of Resources
- Communication Problems/Interfaces Among Agencies
- Ambiguous Terminology “cooperation” and “good cause”
- Tension between mass processing of child support cases and the need for individualized case assessment to identify domestic violence cases.
- Lack of knowledge/understanding about other cultures, also, language barriers.

### Summary of Technical Assistance that Forum Participants Requested

- **Information Sharing and Dissemination;** on existing statutory language, State innovative practices, curricula, and examples of other countries’ experience;
- **Examination of Terminology “Cooperation,” and “Good Cause,”** possible development of new terms; review of alternative approaches to pursuing child support even if good cause is determined;
- **Research on the incidence of domestic violence in the welfare caseload, and the reasons for “non-cooperation”;**
- **Training** on everything from basic information on domestic violence, to interviewing skills, to cross training between domestic violence and public assistance/child support enforcement organizations;
- **Policy guidance** on whether good cause determinations are counted in paternity establishment denominator; ensuring that an appeals process has a broad jurisdictional reach; possible “full faith and credit” for good cause determinations;

**Fostering interface and better communication** among courts, domestic violence organizations, child support enforcement agencies, public assistance agencies, Medicaid, Food Stamps, childcare, and Head Start.

## Appendix 2

### Model State Practices: “Yellow Light” Services

#### Connecticut

In Connecticut, a family violence indicator triggers more cautious case handling by child support workers. Child support staff attempt to “work closely with the protected person to map out a safe and effective plan for proceeding.” Child support staff discuss the child support process at some length with domestic violence victims, including the steps involved in establishment and enforcement, possible outcomes of certain actions, the people with routine access to case information, and the potential risks posed by this access.<sup>99</sup>

#### Delaware

In Delaware, domestic violence victims with an active protective order receive additional information about the child support process, and are offered two options: (1) to close the case; or (2) to proceed with the highest level of safeguards available from the child support program. The child support worker “shepherds” the case through the system, and the enforcement procedure is restricted. Income withholding is the only enforcement mechanism used. Letters and documents are kept to a minimum. If the protective order expires, or a family violence indicator is placed on the case at caseworker discretion, the agency shields the family’s address, but uses normal enforcement mechanisms.<sup>100</sup>

#### Washington State

Washington uses a “two-tier” approach to processing child support cases. Child support workers screen all the cases for domestic violence. When a custodial parent claims good cause and the agency determines, after discussing the issue with the woman, that it is not safe to proceed, the child support is not enforced. However, when the child support agency decides, after discussing the issue with the custodial parent, that child support can be pursued safely, it proceeds with caution.<sup>101</sup> A couple of things about this practice are unusual. First, the child support agency confers with the custodial parent before determining whether a case is, or is not, safe to proceed. Second, the child support agency is trying to meet the needs of battered women by not automatically suspending child support collection efforts when an individual has domestic violence concerns, but instead provides individualized case management.

#### Wisconsin

When a family violence indicator has been placed on a domestic violence victim, the caseworker is expected to select enforcement actions that “factor in” safety risks. In

addition, the child support agency contacts the protected person whenever an enforcement action is taken. Many counties have begun to stagger genetic test schedules, so that mothers and fathers do not appear at the same place at the same time. Finally, the family violence indicator automatically triggers an address block on documents printed in the case.<sup>102</sup>

## Appendix 3

### Model State Practices: Judicial Override Procedures

#### Iowa

1. An “authorized person” may submit a written, sworn request to the child support agency for disclosure of confidential information regarding a party to a child support case. If the person who is the subject of the request carries a flag, the child support agency will deny the request.
2. The requester then may petition an Iowa district court to release the information.
3. If the person is not authorized to have the information under Federal law (such as a non-custodial parent or his attorney), the requester initiates the process by directly filing a petition with the court.
4. The court will order the child support agency to release the information to the court within 30 days.
5. The child support agency then will file a statement informing the court of the family violence issue and provide to the court all of the relevant information in its possession. The agency will also notify the protected individual and provide an opportunity for her to respond.
6. The court then will make a finding whether the requested disclosure could be harmful to the subject party or child, considering any information provided by the parent or child, any child support agency, the requester, and any other relevant information.

(Iowa Code 252B.9A)

#### Massachusetts:

1. When the child support agency or FPLS is prohibited from disclosing personal information because of the risk of harm, a person or agency to whom the child support agency or FPLS could otherwise disclose information may file a petition seeking disclosure with the probate and family court.
2. A court authorized to receive information from the FPLS may submit a written request for the personal information to the child support agency.
3. When a court makes a written request for information to the child support agency and the child support agency has received “reasonable evidence of a risk of harm,” the child support agency will release the personal information

to the court, but must notify the court that before disclosing the information further, the court must determine whether the disclosure would be harmful to the parent or child. Likewise, when a petition seeking disclosure is filed with the court, the court must determine whether disclosure to the petitioner could be harmful to the parent or child before making any disclosure. The court must notify the child support agency when a petition seeking disclosure is filed, and the child support agency must provide the court with the evidence of risk that it has received.

4. Before determining whether disclosure could be harmful, the court will notify the protected parent about the request and provide a specific date by which the parent must object to the release and provide supporting information. The parent may submit the objection in writing, and need not appear in person.
5. In determining whether disclosure could be harmful, the court will consider any relevant information provided by the protected parent, any child support agency, whether the address is “impounded” under a domestic violence order, information in the statewide domestic violence protection order registry, and any other relevant evidence.
6. The court may enter an order impounding the personal information, permitting disclosure by the court to specific persons, prohibiting disclosure to specific persons, permitting disclosure for the limited purpose of service, or removing all restrictions. The court will notify the child support agency of any order. A person or agency who violates the court order may be held in contempt of court, and may be subject to the same penalties imposed on child support agency employees who violate disclosure and confidentiality rules. These penalties include fines and imprisonment.

(Mass. Gen. Laws 119A:5A and 5B)

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<sup>1</sup> Because the overwhelming majority of domestic violence victims are abused by a male partner, and the vast majority of recipients of child support services are women, this paper uses “she,” “woman,” and “abused women” when referring to victims and “he” when referring to abusers. However, all victims deserve protection, support and responsive services, regardless of gender.

<sup>2</sup> Pearson, J. and Griswold, E., “Child Support Policies and Domestic Violence,” *Public Welfare* (Winter, 1997); Brandwein, R., “Family Violence and Social Policy: Welfare “Reform” and Beyond,” in Brandwein, R. ed., *Battered Women, Children, and Welfare Reform: The Ties That Bind* (Thousand Oaks, CA: Sage, 1999).

<sup>3</sup> Davis, M., “The Economics of Abuse: How Violence Perpetuates Women’s Poverty,” in Brandwein (1999), *supra*.

<sup>4</sup> Klein, C., and Orloff, L., “Providing Legal Protection for Battered Women: An Analysis of State Statutes and Case Law,” *Hofstra Law Review*, 21:801, 993 fn. 1209 (Sum. 1993).

<sup>5</sup> Pearson and Griswold (1997), *supra*.

<sup>6</sup> Davies, J., *Building Opportunities for Battered Women’s Safety and Self-Sufficiency* (Practice Paper No. 1), Welfare and Domestic Violence Technical Assistance (Harrisburg, PA: National Resource Center on Domestic Violence, 1997).

<sup>7</sup> Davies (1997), *supra*; Pearson and Griswold (1997), *supra*.



<sup>8</sup> Note that in-hospital paternity establishment procedures, an important area, are not covered in this paper.

<sup>9</sup> Klein and Orloff 990 (1993); Davis (1999), *supra*; Cooley, T., Jones, E., Onge, A., and Wilcox, L., *Safety and Self-Support: The Challenge of Welfare Reform for Victims of Domestic Abuse* (Bangor, ME: Maine Coalition for Family Crisis Services, 1997).

<sup>10</sup> Davis (1999), *supra*.

<sup>11</sup> Lyon, E., *Poverty, Welfare and Battered Women: What Does the Research Tell Us?* (Harrisburg, PA: National Resource Center on Domestic Violence, 1997).

<sup>12</sup> Witkowski, K., *How Much Can Child Support Provide? Welfare, Family Income, and Child Support* (Institute for Women's Policy Research, 1999); Edin, K., and Lein, L., *Making Ends Meet*, (New York: Sage, 1997); Spalter-Roth, R., Burr, B., Hartman, H., and Shaw, L., *Welfare that Works: The Working Lives of AFDC Recipients* (Washington, DC: Institute for Women's Policy Research, 1995); Roberts, P., "The Potential of Child Support as an Income Source for Low-Income Families," *Clearinghouse Review*, 31: 565 (March-April 1998).

<sup>13</sup> Lloyd, S. and Taluc, N., "The Effects of Male Violence on Female Employment," *Violence Against Women*, 5: 370 (Thousand Oaks, CA: Sage, Apr. 1999); Browne, A, Salomon, A., and Bassuk, S., "The Impact of Recent Partner Violence on Women's Capacity to Maintain Work, *Violence Against Women*," 5: 393 (Apr. 1999); U.S. General Accounting Office, *Domestic Violence: Prevalence and Implications for Employment Among Welfare Recipients* (1998); Raphael, J. and Tolman, R., *Trapped by Poverty, Trapped by Abuse* (Taylor Institute and University of Michigan, Research Development Center on Poverty, Risk, and Mental Health, 1997 and Supp. I, 1998); Raphael, J., *Domestic Violence: Telling the Untold Welfare-to-Work Story* (Chicago: Taylor Institute, 1995).

<sup>14</sup> Lloyd and Taluc (1999), *supra*; Lyon (1997), *supra*; Davis (1999), *supra*; Brandwein, R., "Family Violence and Welfare Use: Report From the Field," in Brandwein (1999), *supra*; Salomon, A., Bassuk, S. and Brooks, M., "Patterns of Welfare Use Among Poor and Homeless Women," *American Journal of Orthopsychiatry*, 66: 510 (Oct. 1996); Raphael, J., "Domestic Violence and Welfare Receipt: The Unexplored Barrier to Employment," *Georgetown Journal on Fighting Poverty*, III: 29-34 (1995).

<sup>15</sup> Since these studies were published, the TANF program has replaced AFDC. The proportion of domestic violence cases in the current TANF caseload could vary from AFDC, given the dramatic decline in TANF cases and potential concentration of harder-to-serve families in the remaining TANF caseload. The welfare caseload declined by more than a third between 1994 and 1998. See Raphael and Tolman (1997 and 1998 Supp.); Raphael, J., Bassuk, E., Weinreb, L., Buckner, J., Brown, A., Salomon, A., and Bassuk, S., "The Characteristics and Needs of Sheltered Homeless and Low-Income Housed Mothers," *Journal of American Medical Association*, 276: 640 (1996) (Better Homes Fund Study); Allard, M., Albeda, R., Colten, M., and Cosenza, C., *In Harm's Way? Domestic Violence, AFDC Receipt, and Welfare Reform in Massachusetts* (Boston: University of Massachusetts, Center for Social Policy Research, McCormack Institute, Feb. 1997); Pearson and Griswold (1997) *supra*; Cucio, W., *The Passaic County Study of A.F.D.C. Recipients in a Welfare to Work Program* (Passaic County, NJ, 1997); Missouri Department of Social Services, *Domestic Violence and Women's Employment* (Horizon Research Services, 1997).

<sup>16</sup> Roberts, P., "Pursuing Child Support for Victims of Domestic Violence," in Brandwein (1999), *supra*.

<sup>17</sup> *Id.*

<sup>18</sup> Allard, et al. (1997), *supra*. Many non-custodial parents link child support and access issues, although they are treated legally as separate issues.

<sup>19</sup> Pearson and Griswold (1997), *supra*; Pearson, J., Thoennes, N., and Griswold, E., "Child Support and Domestic Violence: The Victims Speak Out," *Violence Against Women*, v. 5(4), 427-48 (April 1999); Raphael, J., "Prisoners of Abuse: Policy Implications of the Relationship Between Domestic Violence and Welfare Receipt," *Clearinghouse Review*, 30: 186-194 (1996).

<sup>20</sup> The National Council of Juvenile and Family Court Judges has been at the forefront of child custody and child protection issues in the context of domestic violence. See, e.g., the Family Violence Issue of the *Juvenile and Family Court Journal* (Spring 1999). NCJFCJ recently published *Effective Intervention in Domestic Violence & Child Maltreatment Cases: Guidelines for Policy and Practice* (1999) (the "Green Book"). For further information about child protection and domestic violence, contact Billie Lee Dunford-Jackson at NCJFCJ, (775) 784-4463, or bjackson@equinox.unr.edu.

<sup>21</sup> The Colorado Model Office Project, awarded to the Colorado Department of Human Services in 1994, was funded by HHS/OCSE under grant no. 90-FF-0027; Pearson and Griswold (1997); Pearson, et al (Feb. 1998).

<sup>22</sup> 42 U.S.C. 608(a)(7).

<sup>23</sup> 42 U.S.C. 607.

<sup>24</sup> 42 USC 602(a)(7).

<sup>25</sup> For an overview of child support provisions enacted in PRWORA, see Legler, P., "The Coming Revolution in Child Support Policy: Implications of the 1996 Welfare Act," *Family Law Quarterly*, 30: 5119 (Fall 1996).

<sup>26</sup> For more information on the forum, see Notar, S., *Cooperation/Good Cause Forum Report* (HHS/OCSE, 1997).

<sup>27</sup> *Id.* See also OCSE Dear Colleague Letter 97-90 with a chart on post-PRWORA State cooperation and good cause practices; Notar, S., "Welfare Reform: Domestic Violence Provisions" in *the Child Support Report*, XVII, No. 12 (Dec. 1996).

<sup>28</sup> OCSE Dear Colleague Letter #98-122 on the Family Violence Indicator and Override Process (Nov. 25, 1998).

<sup>29</sup> OCSE Dear Colleague Letter #98-84 (Aug. 14, 1998). Contact the National Resource Center on Domestic Violence at 1-800-537-2238.

<sup>30</sup> OCSE Dear Colleague Letter #96-56.

<sup>31</sup> OCSE Dear Colleague Letter 98-39 (April 24, 1998).

<sup>32</sup> Families receiving Medicaid must cooperate with the child support program to obtain medical support from non-custodial parents and Medicaid reimbursement from liable third parties, but need not pursue cash child support. 42 USC 1396k(a)(i); 45 CFR 302.31; 232.12. The underlying foster care statute does not include a child support cooperation requirement. 42 U.S.C. 670 *et seq.* PRWORA includes State options to require cooperation from custodial and/or non-custodial parents. 7 U.S.C. 2015.

<sup>33</sup> HHS, *Characteristics of Families Using Title IV-D Services in 1995* (1999) cited in Turetsky, V., *Income Levels of IV-D Families* (Washington, DC: CLASP, 1999).

<sup>34</sup> 42 C.F.R. 232, Appendix A.

<sup>35</sup> See discussion in preamble to TANF regulations at 64 Fed. Reg. 17720, 17850 (April 12, 1999).

<sup>36</sup> Turetsky, V., *Pointing the Finger at Moms: Child Support Cooperation Provisions in the Conference Welfare Bill* (Washington, DC: CLASP, 1996).

<sup>37</sup> Pearson and Griswold (1997).

<sup>38</sup> Pearson and Griswold (1997), *supra*; Brandwein, "Family Violence and Social Policy" in Brandwein (1999), *supra*; Roberts, (1996) *supra* (1996); Entmacher, (1997), *supra*.

<sup>39</sup> Raphael, J. and Haennicke, *Keeping Battered Women Safe Through the Welfare-to-Work Journey: How Are We Doing? A Report on the Implementation of Policies for Battered Women in State Temporary Assistance for Needy Families (TANF) Programs* (Sept. 1999), posted on the Internet at <http://www.ssw.umich.edu/trapped>; Davies, J., *The New Welfare Law: Child Support Enforcement*, Practice Paper No. 3, Welfare and Domestic Violence Technical Assistance Initiative (Harrisburg, PA: National Resource Center on Domestic Violence, 1997).

<sup>40</sup> Davies, J., *Family Violence Protocol Development*, Practice Paper No. 2, and *Building Opportunities for Battered Women's Safety and Self-Sufficiency*, Practice Paper No. 1, Welfare and Domestic Violence Technical Assistance Initiative, (Harrisburg, PA: National Resource Center on Domestic Violence, 1997).

<sup>41</sup> Raphael and Haennicke, (Sept. 1999), *supra*.

<sup>42</sup> *Id.*; Davies, *Family Violence Protocol Development*, Practice Paper No. 2, *supra*.

<sup>43</sup> Pearson, Jessica, *Notices, Screening Instructions, and Data Collection Forms on Domestic Violence for Public Assistance Clients* (1997).

<sup>44</sup> Gallup-Black, A., *Using Audio-CASI to Collect Data on Domestic Violence: the MFIP Survey Experience* (New York: MDRC, 1999).

<sup>45</sup> 64 Fed. Reg. 17720 (April 12, 1999). These regulations also are posted on the Internet at <http://www.acf.dhhs.gov/programs/ofa/finalru.htm>.

<sup>46</sup> 42 U.S.C. 654(29).

<sup>47</sup> 42 U.S.C. 608(a)(2); 609(a)(5).

<sup>48</sup> 42 U.S.C. 654(29)(A), (B), (C), and (D).

<sup>49</sup> More specifically, the State must decide whether the child support agency or the program agencies administering TANF, Medicaid, foster care, and Food Stamps will define and decide good cause. 42 U.S.C. 654(A).

<sup>50</sup> 42 U.S.C. 608.

<sup>51</sup> For discussions about defining child support good cause, setting evidentiary standards, locating the good cause determination, and implementing other recommended good cause policies and procedures, see Notar, S., *Cooperation/Good Cause Forum Report* (HHS/OCSE: 1997); Roberts, P., *Child Support Cooperation Issues: Implementing the Provisions of the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996,"* (Washington, DC: CLASP, 1996); Entmacher, J., *Child Support and Domestic Violence: The "Good Cause" Exception* (Washington, DC: Women's Legal Defense Fund, now National Partnership for Women and Families, 1997).

<sup>52</sup> 42 U.S.C. 602(A)(7).

<sup>53</sup> 42 U.S.C. 607.

<sup>54</sup> 42 U.S.C. 608(a)(7)(C).

<sup>55</sup> In a survey of state-by-state implementation of the Family Violence Option, the Taylor Institute identified 36 states that had adopted the option as of May 1999, although it is not clear whether all of these States have received Federal recognition. See Raphael and Haennicke (Sept. 1999), *supra*. For a discussion of recommended procedures implementing the Family Violence Option, see Raphael and Haennicke (Sept. 1999) and Davies, *Family Violence Protocol Development*, Practice Paper No. 2, and *Building Opportunities for Battered Women's Safety and Self-Sufficiency*, Practice Paper No. 1 (1997), *supra*. Also see Raphael, J., "The Family Violence Option: An Early Assessment," *Violence Against Women* 5: 449 (Apr. 1999); Pollack, W. and Davis, M., "The Family Violence Option of the Personal Responsibility and Work Opportunity Act of 1996: Interpretation and Implementation," *Clearinghouse Review*, 30: 1079 (March-April 1997).

<sup>56</sup> See preamble to TANF regulations at 64 Fed. Reg. at 17851.

<sup>57</sup> Davies, *The New Welfare Law: Child Support Enforcement*, Practice Paper No. 3 (1997), *supra*; Turetsky (1996), *supra*.

<sup>58</sup> The Superior Court of the District of Columbia helped create a domestic intake center within its unified court system to coordinate criminal, civil protection, child support, and custody and visitation proceedings in a domestic violence case. See District of Columbia Domestic Violence Coordinating Council, *The District of Columbia Domestic Violence Plan* (1995).

<sup>59</sup> Roberts in Brandwein (1999), *supra*.

<sup>60</sup> Pearson and Griswold (1997), *supra*.

<sup>61</sup> State Policy Documentation Project (SPDP) survey data from state administrators and advocates. The SPDP is a joint project of CLASP and the Center for Budget and Policy Priorities.

<sup>62</sup> *Id.*

<sup>63</sup> Mickens, J., *The Family Violence Indicator, A Guide to State Practices*, (OCSE: 1999 draft). The draft guide includes state contacts.

<sup>64</sup> *Id.*

<sup>65</sup> Klein and Orloff (1993), *supra*.

<sup>66</sup> This point was raised by Jens Feck, HHS/ACF, Region 2.

<sup>67</sup> 42 USC 654(26)(A); 45 CFR 303.21 (now repealed).

<sup>68</sup> 42 USC 654(26).

<sup>69</sup> The new law requires that by October 1, 2000, state child support programs establish centralized case registries of IV-D cases and all child support orders (whether IV-D or not) established or modified in the state after October 1, 1997. 42 U.S.C. 654(c) and 653(a)(2). For a more detailed discussion of child support data bases, see Turetsky, V., *Child Support Administrative Processes: A Summary of Requirements in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996* (Washington, DC: CLASP, 1997).

<sup>70</sup> 42 U.S.C. 653a and 653.

<sup>71</sup> 42 U.S.C. 654(26)(A)(B) and (C). State child support programs must have across-the-board confidentiality policies in place, including: (1) written policies that permit access to and use of data only to the extent necessary to carry out the child support program and that specify the data which may be used for particular program purposes; (2) written policies that specify the personnel permitted access to the data; (3) computer system controls (such as passwords or field blocking) to ensure strict adherence to confidentiality policies; (4) routine monitoring of access to and use of the computer system (such as audit trails and feedback mechanisms) to guard against and promptly identify unauthorized access or use of data; (5) staff trained in security requirements and procedures; and (6) administrative penalties (including dismissal from

employment for unauthorized access to, disclosure of, or use of confidential data. 42 U.S.C. 654(26)(A); 654A(d). See 63 Fed. Reg. 44795 (Aug. 21, 1998) and OCSE-AT-98-26 (Aug. 21, 1998).

<sup>72</sup> Based on Philip Browning's research; contact the authors for further information.

<sup>73</sup> Cited in Mickens (1999 draft).

<sup>74</sup> See Notar (1997), *supra*.

<sup>75</sup> Fact sheet on the Violence Against Women Act, and the Violence Against Women Office.

<sup>76</sup> 42 USC 653.

<sup>77</sup> 42 U.S.C. 654(26)(D) and 653(b)(2).

<sup>78</sup> All requests for FPLS data are handled through the state IV-D office.

<sup>79</sup> 42 U.S.C. 653. Location, employment, income and asset information may be released for child support purposes.

<sup>80</sup> 42 U.S.C. 663. Location information only may be released for child custody purposes.

<sup>81</sup> Mickens (1999), *supra*.

<sup>82</sup> 42 U.S.C. 653(b)(2)(B).

<sup>83</sup> For HHS policies and procedures related to the family violence indicator and judicial override requirements see HHS action transmittal, "The Domestic Violence Indicator and Child Abuse Provisions of Title IV-D of the Social Security Act," OCSE-AT-98-27 (undated), and Dear Colleague Letter, DCL-98-122 (November 25, 1998), both posted at [www.acf.dhhs.gov/programs/cse/pol](http://www.acf.dhhs.gov/programs/cse/pol). Also see *The Family Violence Indicator, A Guide to State Practices* (1999 draft)(available on the Internet at [www.acf.dhhs.gov](http://www.acf.dhhs.gov)). A bench book on child support issues is forthcoming. At OCSE, contact Susan Notar, OCSE Domestic Violence Liaison at (202) 401-4606, or [snotar@acf.dhhs.gov](mailto:snotar@acf.dhhs.gov) for information and technical assistance about child support and domestic violence issues. Contact Jeff Johnson, FPLS Judicial Outreach Coordinator, (202) 401-5567, or [jjohnson@acf.dhhs.gov](mailto:jjohnson@acf.dhhs.gov) about FPLS requirements. Contact June Melvin Mickens, Federal Case Registry Technical Assistance Family Violence Coordinator, at (301) 847-9495, or [jimmckns@aol.com](mailto:jimmckns@aol.com) about the Family Violence Indicator.

<sup>84</sup> See Mickens (1999), *supra*.

<sup>85</sup> See Notar (1997), *supra*, and "Washington State Address Confidentiality Program Summary," issued by the Secretary of State's Office.

<sup>86</sup> States were required to enact the version approved by the American Bar Association on February 9, 1993, together with any amendments officially adopted before January 1, 1998, by the National Conference of Commissioners on Uniform State Laws. See PRWORA section 321.

<sup>87</sup> Sampson, J., "UIFSA: An Interstate Support Act for the 21<sup>st</sup> Century," *27 Family Law Quarterly* 85 (Spring 1993).

<sup>88</sup> OCSE, *Twenty First Annual Report to Congress for the period ending September 30, 1996*, at 5.

<sup>89</sup> Section 311 of UIFSA requires that the petition or accompanying documents must provide, so far as known, the name, residential address, and social security numbers of the obligor and the obligee, and the name, sex, residential address, social security number, and the date of birth of each child for whom support is sought.

<sup>90</sup> See Annotated UIFSA *supra* and footnote 100.

<sup>91</sup> Conversation with Andrew Williams, participant at UIFSA drafting meetings.

<sup>92</sup> UIFSA defines "tribunal" as a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

<sup>93</sup> See section 312 UIFSA. The finding may be made *ex parte*, that is, without the parties present.

<sup>94</sup> This suggestion was made by June Mickens.

<sup>95</sup> Roberts in Brandwein (1999), *supra*.

<sup>96</sup> See Raphael and Haennicke (Sept. 1999).

<sup>97</sup> *Id.*

<sup>98</sup> For a discussion on specialized domestic violence staff, see Davies, *Building Opportunities for Battered Women's Safety and Self-Sufficiency*, Practice Paper No. 1 (1997), *supra*.

<sup>99</sup> See HHS/OCSE, "The Family Violence Indicator," *supra*.

<sup>100</sup> *Id.*

<sup>101</sup> See Cooperation/Good Cause Forum Report, *supra*.

<sup>102</sup> See HHS/OCSE, The Family Violence Indicator, *supra*.