

Welfare, Workforce Development & Ex-Offenders Background Paper

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Background

The American welfare system changed dramatically in August 1996, with the signing of the “Personal Responsibility and Work Opportunity Reconciliation Act”¹ (PRWORA). The law ended the individual entitlement to welfare and replaced it with a block grant to States (Temporary Assistance for Needy Families, or TANF), set a five-year lifetime limit on benefits, required adults to work to receive benefits, and strengthened child support enforcement requirements for non-custodial parents.

At the same time TANF was being implemented by the States, two major changes occurred in the workforce development system at the Federal level. First, to complement welfare reform efforts, the Welfare-to-Work (WtW) program was created as part of the “Balanced Budget Act of 1997.”² The purpose of the program was to facilitate the placement of hard-to-employ welfare recipients and non-custodial parents into transitional employment opportunities that would lead to lasting unsubsidized employment and self-sufficiency. Following the creation of WtW, the “Workforce Investment Act (WIA) of 1998” passed,³ which made several major changes to how workforce development services are organized, delivered, and funded.

Since 1997, welfare caseloads have dropped significantly. Between January 1997 and June 2000, the number of individuals receiving welfare declined 49 percent and the number of families receiving welfare declined 46 percent.⁴

Welfare reform, WtW, and the transition to WIA have charged States and localities to implement policies to help TANF recipients and other low-income Americans address a range of barriers to self-sufficiency, including physical disabilities, mental illness, and addiction. An employment barrier that has so far been overlooked, however, is the effect of criminal records on custodial and non-custodial parents of TANF-eligible children. A number of children involved in the TANF program have parents whose criminal justice histories make it difficult for them to find jobs or qualify for Federal assistance.

¹ Public Law 104-193.

² Public Law 105-33.

³ Public Law 105-220.

⁴ “Change in TANF Caseloads,” web site of the Administration for Children and Families. Retrieved from <http://www.acf.dhhs.gov/news/stats/caseload.htm> on June 4, 2001.

The reauthorization processes for TANF (required in FY 2002) and WIA (required in FY 2003), as well as growing policy interest in improving offender re-entry and reintegration, provide an opportunity to:

- Examine how the welfare and workforce development systems are currently serving adults whose criminal histories may be a barrier to self-sufficiency, including building collaboration with other key systems, such as housing and substance abuse treatment.
- Explore how the welfare and workforce development systems can serve families with ex-offenders more effectively to build on welfare reform's success.
- Identify model programs having success with ex-offenders, including youthful offenders, so their methods can be disseminated.

Parents and the Criminal Justice System

Most adults in State (55 percent) and Federal (63 percent) prison have minor children, and almost half (46 percent) lived with their children before their incarceration.^{5,6}

Mothers in prison report that most of their children live with a relative, primarily a grandparent, while they were incarcerated, and some regain custody after release.⁷

Before being incarcerated, about one-quarter of parents were unemployed (29 percent in state prison and 26 percent in Federal prison), with more mothers in both systems reporting unemployment (50 percent of women in State prison and 38 percent in Federal prison).⁸ In addition, a significant percentage of incarcerated mothers – 42 percent in State prison and 33 percent in Federal prison – report receiving welfare before being arrested and incarcerated.⁹

Little research has focused on welfare program participation by individuals involved in the criminal justice system. Recent findings include:

- One-fifth of adult TANF recipients in Alameda County, California, had been convicted of a crime, 9.8 percent had been convicted of two or more crimes, and 10.2 percent had been convicted of a felony since the age of 18.¹⁰ (The study did not report on the nature of these convictions.)

⁵ Christopher J. Mumola. "Incarcerated Parents and Their Children." Washington, DC: U.S. Department of Justice, August 2000, p. 1.

⁶ Almost three-quarters (72 percent) of women on probation in 1998 were parents. Lawrence A. Greenfield and Tracy L. Snell, "Women Offenders." Washington, DC: US Department of Justice, December 1999, p. 7. No comparable data are available for women on parole.

⁷ Mumola, *op. cit.* p. 3.

⁸ *Ibid.*, p. 10.

⁹ *Ibid.*

¹⁰ Rex S. Green, *et. al.* Alameda County CalWORKs Needs Assessment: Barriers to Working and

- A three-county study¹¹ that examined child-only TANF cases found that between 9 and 12 percent of the cases resulted from a parent's incarceration.¹²

PRWORA/Welfare

PRWORA provides more than \$16 billion annually to States for their TANF programs. States have significant flexibility over how they spend this money but can face penalties if they do not meet statutorily set work participation rates (how many TANF recipients must be working) or for having too many families on assistance for more than 60 months.

Key provisions of the TANF program include:

- A five-year cumulative lifetime limit on Federal assistance (or less at state option). States may exempt up to 20 percent of the caseload from the time limit, and States have the option of providing non-cash assistance and vouchers to families that reach the time limit.
- A work requirement. The law requires recipients to work after two years of assistance or face sanctions, including termination of benefits, with few exceptions. Activities that count toward the work requirement include unsubsidized or subsidized employment, on-the-job training, work experience, community service, vocational training (12 months).
- Strengthened child support enforcement mechanisms for non-custodial parents.
- Separation of Medicaid eligibility from welfare eligibility. Previously, individuals eligible for Aid to Families with Dependent Children (AFDC, TANF's predecessor) were automatically eligible for Medicaid. Now Medicaid eligibility decisions are based on pre-TANF AFDC eligibility criteria, regardless of TANF eligibility. As a result, it is possible for a low-income individual to be eligible for Medicaid but not for TANF.
- Sanctions for non-compliance with TANF work requirements,¹³ including Medicaid sanctions.¹⁴

The law also contains two provisions specifically relevant to a recipient's criminal justice history:

- Individuals with drug felony convictions are ineligible for TANF assistance and food stamps – unless the state they live in enacts legislation to opt out of or modify the ban.¹⁵

Summaries of Baseline Status. Berkeley, CA: Public Health Institute, February 10, 2000, p. 37.

¹¹ Alameda County, California; Duval County, Florida; and Jackson County, Missouri.

¹² Mary Farrell, *et. al.*, "Understanding the AFDC/TANF Child-Only Caseload: Policies, Composition, and Characteristics in Three States." Washington, DC: HHS Office of the Assistant Secretary for Planning and Evaluation, 2000.

¹³ §407(e)(1) of PRWORA.

¹⁴ §114(b)(3) of PRWORA.

¹⁵ §115, as amended by §5516 of BBA. The ban applies to felonies for possession, use, and distribution.

As of May 2000, about half the states (24) were enforcing the ban, including some with large welfare caseloads, such as California and Pennsylvania.¹⁶

- Individuals in violation of a condition of their parole or probation are ineligible for TANF assistance, food stamps, Supplemental Security Income (SSI), and public housing.¹⁷ For SSI and food stamps, the ineligibility applies “during such month” and “during any period,” respectively, that the individual is out of compliance; for TANF and public housing, the period of ineligibility is not defined further in the law.

The Workforce Development System

Welfare-to-Work (WtW) Program

The Welfare-to-Work (WtW) program, created in 1997 under the Balanced Budget Act, included appropriations of \$3 billion (\$1.5 billion for FY98 and FY99). States and localities are allowed up to five years to spend the funds (FY2003 and FY 2004) but, because the program was not intended as a permanent source of new funds, it will not receive new appropriations.

WtW was aimed at funding services – such as job training, job creation, on-the-job training, job readiness, post-employment services, and supportive services – through both formula grants and competitive grants. Services were to be targeted to the hardest-to-employ TANF recipients (such as those “requiring substance abuse treatment for employment”¹⁸), former TANF recipients (individuals who would be receiving TANF but for Federal or State time limits), and non-custodial parents of children receiving TANF.¹⁹

The Welfare-to-Work and Child Support Amendments of 1999²⁰ further expanded eligibility for TANF recipients and non-custodial parents. The goal of latter expansion was to make it easier for States to focus their WtW funds on services for non-custodial parents and improve their ability to pay child support. In addition, the amendments required non-custodial parents to enter into personal responsibility contracts, permitted data sharing between Child Support agencies and Workforce Investment Boards (WIBs), and allowed for limited pre-employment vocational education and training.

Workforce Investment Act Programs

WIA created a broad-based national system of services for job seekers and employers, relying on a “one-stop” service delivery approach. WIA, which replaced the Job Training Partnership Act (JTPA) and a variety of other work-related programs, created a network of local employer-led

¹⁶ *Getting to Work: How TANF Can Support Ex-Offender Parents in the Transition to Self-Sufficiency*. Washington, DC: Legal Action Center, 2001, p. 24.

¹⁷ §408(a)(9), 821, 202, and 903 (respectively) of PRWORA.

¹⁸ §403(a)(5)(C)(ii)(I)(bb) of BBA.

¹⁹ §403(a)(5)(C)(iii)(II)(aa) of the BBA.

²⁰ Enacted as part of the “Consolidated Appropriations Act for FY2000,” P.L. 106-113.

Workforce Investment Boards (WIBs). These Boards, which replaced Private Industry Councils (PICs), serve as the main vehicles for bringing together diverse programs into a single local workforce development system.

WIA institutionalizes the “one-stop” system, through which clients access a full range of services, with the goal of decreasing fragmentation of services and increasing collaboration of public agencies and community-based organizations. Although WIA designates required one-stop partners, such as adult education, vocational rehabilitation, and welfare-to-work, the TANF system is only an optional partner.

WIA established a tiered approach to core employment services, intensive employment services, and training through One-Stops. Particular types of services found in each of the three categories may include: eligibility, outreach, intake, orientation, follow-up services, specialized assessments, individual counseling and career planning, basic skills development, customized training, and occupational skills training.

Although passed in August 1998, many of WIA’s components did not take full effect until July 2000. As a result, State and local implementers – including local governments, State labor agencies, and educational institutions – are at different stages of implementation, with most recently having completed one year of implementation.²¹

Department of Labor Reentry Activities

The Department of Labor (DOL) Employment and Training Administration (ETA) is a partner with other Federal agencies, including the Departments of Justice (DOJ) and Health and Human Services (HHS) in the Young Offender Initiative. The initiative includes two separate grant programs:

- **Demonstration Grant Program.** Since 1998, ETA has made 23 grants under the this program, which supports local projects that target offenders between the ages of 14 and 24 returning from prison or jail or at risk of criminal behavior or gang activity. The goal of the projects is to help youth offenders complete school and get jobs by linking juvenile justice and youth development and training and employment activities with One-Stop Career Centers, created under WIA.
- **Reentry Grant Program.** Through partnership between DOL, DOJ, and HHS, the program has awarded \$79 million in grants to 25 jurisdictions to promote public safety through the successful reintegration to the community offenders between the ages of 14 and 35 who have been confined for a minimum of six consecutive months (juveniles) or 12 consecutive months (adults) through a coordinated and comprehensive continuum of services. The Departments of Housing and Urban Development and Education have also recently become involved in the initiative.

²¹ US General Accounting Office, “Workforce Investment Act: Better Guidance Needed to Address Concerns Over New Requirements,” October 2001, p. 2.

Key Policy Issues: The TANF and Workforce Development Systems and Ex-Offenders

Tens of thousands of Americans are released into the community from prison and jail every year. Many have few, if any, resources to fall back on as they struggle to succeed in creating a life outside of prison and jail.

Access to services (including education, job training, job placement, job retention, and alcohol and drug treatment) before and after release may be a crucial component of success for those at high risk of recidivism and re-incarceration. The TANF and workforce development systems may be untapped resources for assisting offenders in re-entering the community, into their families, and the workforce, as well as improving public safety.

The remainder of this paper briefly discusses four TANF and workforce development policy issues and how they affect ex-offenders. Key questions to keep in mind for discussion at the meeting include:

- What do we know about the effectiveness of current policies?
- What more do we need to know to determine the effectiveness of current policies?
- What are the barriers, if any, to more effective policies?
- What are the policy options for addressing those barriers? What are the advantages and disadvantages of each?
- What are the barriers to change?
- What promising practices already exist?

I. Eligibility for TANF assistance and non-assistance.

The TANF program creates a distinction between “assistance” and “non-assistance.” Only parents with dependent children are eligible for TANF assistance, which is defined as “[c]ash, payments, vouchers, and other forms of benefits designed to meet a family’s ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses).”²² Some ex-offenders who regain custody of their children upon or after release will remain eligible for assistance.

Specifically excluded from the definition of “assistance” are services such as “counseling, case management, peer support,”²³ non-recurrent short-term benefits,²⁴ and transportation benefits. A

²² §260.31(a) of the final rule.

²³ §260.31(b) of the final rule.

²⁴ Defined as designed to deal with a specific crisis situation or episode of need, not intended to meet recurrent or ongoing need, and not to extend beyond four months. (§260.31(b) of the final rule.)

larger range of individuals are eligible for “non-assistance,” including non-custodial parents and individuals with drug felony convictions.

HHS guidelines state that a range of services – including child care, transportation, case management, alcohol and drug treatment, vocational rehabilitation, mental health services, and parenting training – can appropriately be funded through TANF.²⁵ Some States and counties have begun creatively investing TANF funds in services.

North Carolina, for example, has allocated TANF funds to support Qualified Substance Abuse Professionals (QSAPs), alcohol and drug clinicians who are co-located in county welfare agencies to screen and assess TANF recipients for problems and connect them with treatment.²⁶ In Hamilton County, Ohio, TANF funds are supporting screening and assessment services provided by Recovery Link, a provider services organization.²⁷

II. Access to supports for work, work training, and job retention.

Many ex-offenders have limited employment histories and need a variety of job-related services – including education/GED, literacy, work training, work experience, and job retention (including case management) – to achieve self-sufficiency. Yet few receive these services while in prison.

In 1997, only 27 percent of Federal and State inmates participated in vocational training and 11 percent of Federal inmates and 2 percent of State inmates worked in prison industry jobs.²⁸ Yet research shows that those who participate in work or work training are less likely to re-offend and return to prison.²⁹

Ex-offenders need other services, as well, to help make them employable, such as alcohol and drug treatment. Half of state prisoners and one-third of Federal prisoners in 1997 reported committing their offense while under the influence of alcohol and/or drugs. Yet among those who had used alcohol or drugs in the month before their offense, only 14 percent had received treatment since their admission.³⁰

²⁵ Department of Health and Human Services, “Helping Families Achieve Self-Sufficiency: A Guide on Funding Services for Children and Families through the TANF Program,” undated.

²⁶ North Carolina Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services. WF/SA Initiative Reporting Information, August 2000.

²⁷ Personal communication with local treatment providers and county welfare and alcohol and drug officials.

²⁸ US General Accounting Office, “Prisoner Releases: Trends and Information on Reintegration Programs.” Washington, DC: June 2001, p. 4.

²⁹ *Ibid.*, p. 20.

³⁰ Christopher J. Mumola, “Substance Abuse and Treatment, State and Federal Prisoners, 1997,” Bureau of Justice Statistics, January 1999.

Tacoma-Pierce County, Washington, is using WtW funds to serve offenders through a Defendant Assistance Program. The program has a close partnership with the Division of Child Support and serves offenders who are non-custodial parents with employment, training, and supportive services. Under the program, 78 percent of enrolled non-custodial parents have been able to start or increase their child support payments.³¹

III. Labor force issues and hiring.

Many employers are reluctant to hire ex-offenders, particularly out of fear of crime against their business or other employees. Information and support is sometimes available to employers willing to take a risk on an ex-offender.

A number of laws govern the employment of people with criminal records. Some of these laws protect ex-offenders from discrimination based on their conviction record, and others restrict employers from hiring people with certain types of convictions.

While employers are generally not allowed to have blanket bars against hiring people with criminal records, they are permitted to consider the relationship between the conviction and the job sought. The types of jobs with legal prohibitions against ex-offenders tend to be in the fields of child care, education, security, nursing, and home health care.

Good labor market conditions may sometimes mitigate these challenges. For example, when demand is high for labor, employers may be more willing to hire ex-offenders. But this willingness may disappear when conditions change.

The Federal Bonding Program can also mitigate employer reluctance to hire ex-offenders. The program, administered by DOL, provides bonds to employers for job applicants who are (or may be) denied coverage because of their criminal record, ensuring the employer against theft, forgery, larceny, and embezzlement.

IV. Child support obligations.

The 1996 welfare law strengthened child support requirements for non-custodial parents. Innovations include a streamlined paternity establishment process, a national new-hire reporting system to track delinquent parents across State lines, and new penalties for non-compliance, including expanded wage garnishment and revocation of professional licenses.

It is a challenge to strike the balance between appropriate and realistic child support payments for the non-custodial parent in the best of situations, but even more difficult for ex-offenders. Many non-custodial parents are released from prison with child support arrearages and support orders larger than they can reasonably manage. Despite an obvious reduction in, if not elimination of, earning ability when a parent goes to prison, child support orders are often not modified.³²

³¹ "Tacoma-Pierce County Employment and Training Consortium in Partnership with Department of Corrections" one-pager.

³² Vicki Turetsky, *Realistic Child Support Policies for Low-Income Fathers*. Washington, DC: Center for Law and Social Policy, March 2000, p. 6.

Consequently, when these parents are released, they face a significant gap between the amount they owe and the amount they can pay. This gap can make non-custodial parents feel defeated before they start working and conclude that working does not benefit them since they may not be able to keep a significant part of their earnings.

Some States have begun to experiment to alleviate conflicts caused by arrears. Maryland, for example, has adopted a pilot program that gives amnesty for 40 percent of the arrears for those who enroll in and complete a community-based fatherhood program and stay current in their support payments for 12 months. For those who remain current for 24 months receive complete amnesty.³³

Conclusion

Changes in the welfare and workforce development systems have created opportunities for State and local governments to develop policies and services to help address barriers to work facing many low-income Americans. An employment barrier that has so far been overlooked, however, is the effect of criminal records on custodial and non-custodial parents.

The reauthorization processes for TANF (required in FY 2002) and WIA (required in FY 2003), as well as growing policy interest in improving offender re-entry and reintegration, provide an opportunity for Federal, State, and local decision makers to consider how best to meet the employment needs of ex-offenders.

³³ Paula Roberts, *An Ounce of Prevention and a Pound of Cure: Developing State Policy on the Payment of Child Support Arrears by Low-Income Parents*. Washington, DC: Center for Law and Social Policy, May 2001, p. 17.