

# SERVING MARKET NEEDS, NOT PEOPLE'S NEEDS:

## THE INDIGNITY OF WELFARE REFORM

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I am so happy to join all of you in celebrating and honoring Peter's life and work. Even for those of us who knew Peter only a little – from a few phone conversations and faxes, conferences or chance meetings – or who knew him only through his work and reputation, he has had a profound impact.

News of Peter's death spread through the public interest community with such intensity, an electric charge of terrible sorrow transmitted by e-mail and phone calls. Listservs filled up with remembrances of him from advocates and students and activists all over the country. We knew that we had lost not merely a superb intellect, but an unrelentingly warm heart and an invincible spirit, all captured in this person who inspired us to go on with our work, and gave us succor when the difficulties of our work gave us pause.

So it is with Peter, or more specifically with Peter's words, that I want to start my comments today about welfare and welfare reform. In his 1996 article, *The Problem Child*, Peter situates us in the current political moment with his typical, devastating accuracy:

So far to the right is the political center, so dominant is the ideology of the market, that any serious attempt at interjecting discussion of the structural failings of our economic system; the debilitating effects of material deprivation on developing minds and bodies; or the enduring legacy of subordinating people on the basis of race, gender, and sexual orientation is dismissed as denying personal responsibility, or treated as the mindless reaction of an outdated and knee-jerk liberalism. Indeed, even to use the term

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“capitalism” in any context other than to celebrate its unalloyed triumph over communism is to risk being regarded as an out-of-touch ideologue or as a tired old leftist.<sup>1</sup>

To give you an idea of where I am going with this, I have no doubt that by the end of my comments this afternoon I, too, will be branded as an out-of-touch ideologue and a tired old leftist. For that matter, I hope all of you will be as well, for surely Peter was right in his repeated warnings about the predominance of market ideology and the marginal position that those of us who question it in the least are forced to occupy.<sup>2</sup> Welfare reform represents one of the great triumphs of market values over human values, a triumph that is exactly the kind of ugly vindication that fueled Peter’s project to articulate an alternative vision of justice in which morality rooted in human experience, and not merely the automated outcomes of market machinations, plays the central role.<sup>3</sup>

While far from a perfect system, AFDC,<sup>4</sup> the main welfare program that was affected by welfare reform, performed one task: It provided income support to desperately poor families, and it did so as a federal entitlement. That is, it set an economic baseline below which we would not let families fall. For all its faults, the AFDC program represented an important commitment to the inherent dignity of all people, and reflected a recognition of the fact that from such dignity flows the right to subsistence for oneself and for one’s family. As served up by a Republican Congress and a Democratic President, welfare reform scrapped the AFDC program entirely, wiping out the right to welfare, which had existed for seven decades.<sup>5</sup> So much for human dignity. Welfare reform promised to lift welfare recipients out of poverty, raise their self-esteem, and reduce their “irresponsible”

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1. Peter M. Cicchino, *The Problem Child: An Empirical Survey and Rhetorical Analysis of Child Poverty in the United States*, 5 J.L. & POL’Y 5, 6-7 (1996).

2. See *id.* at 105 (contending that conservative politicians are mistaken in believing that “the market exhibits the same traits as the God of monotheism: omnipotence and benevolence” and that the market will provide whatever society needs).

3. See generally Peter Cicchino, *Defending Humanity*, 8(1) HUM. RTS. BRIEF 2 (2000).

4. Aid to Families with Dependent Children (“AFDC”) (formerly codified at 42 U.S.C. § 601 (1935)) (replaced by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, § 103(a)(1), 110 Stat. 2113 (1996)), amended by Pub. L. No. 105-33, § 5514(c), 111 Stat. 620 (1997).

5. See The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (“PRWORA”), Pub. L. No. 104-93, § 101, 110 Stat. 2113 (1996) (codified at various locations in the U.S. Code, including 42 U.S.C. 601-619); Cicchino, *supra* note 1, at 33 n.126 (describing how the enactment of House Bill 3734 in August of 1996 ended the AFDC program and “welfare” as it had been previously understood).

out-of-wedlock births, all in one fell swoop.<sup>6</sup> And all this was necessary, we were told, because of the “welfare queen,” that mythical obese African American woman who had more and more children in order to get a bigger and bigger welfare check, and thereby live forever off the dole.<sup>7</sup>

The genesis, racism, fallacy, and insidious deployment of this stereotypical welfare recipient in manufacturing public demand for welfare reform is well-documented,<sup>8</sup> and I will not dwell on it. I raise it here only to note that the “welfare queen,” constructed to personify the immorality of welfare recipients – lazy, slothful, gluttonous – deviously masked a market-driven agenda for reform.

One of the salient features of welfare reform is a requirement that welfare recipients in the former AFDC program go to work in order to continue receiving a welfare check, hence the common phrase, “welfare-to-work.” While we may ascribe a moral value to work – and certainly proponents of welfare reform fed us that line – it is important to understand the market value of work, or more importantly, of participation in the labor pool, that lurks beneath this language of morality. The point is very simple: by forcing hundreds of thousands of welfare recipients into the job market, welfare reform

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6. See PRWORA § 101 (blaming out-of-wedlock births for a number of social ills, including welfare dependence, child abuse, and neglect); see also Charles Murray, *The Coming White Underclass*, WALL ST. J., Oct. 19, 1993, at A14 (stating that another reason to “get rid of the welfare system” is to “free up” more money for orphanages and to provide “a warm, nurturing environment for children”).

7. See *id.* at 34-39 (citing CHARLES MURRAY, *LOSING GROUND: AMERICAN SOCIAL POLICY, 1950-1980* (10th ed. 1994) for the conservative proposition that poverty relief programs such as AFDC encourage social pathology among the poor and, in particular, have been linked to such destructive behaviors as an increase in non-marital births). “Also, conservatives argue that because the AFDC budget increases with family size, the program has created a cash incentive for poor people to have more children.” *Id.* at 39. See also Dorothy E. Roberts, *The Value of Black Mothers’ Work*, 26 CONN. L. REV. 871 (1994).

When welfare reformers devise remedies for maternal irresponsibility, they have Black single mothers in mind. Although marital status does not determine economic well-being, there is a strong association between Black single motherhood and family poverty. The image of the lazy Black welfare queen who breeds children to fatten her allowance shapes public attitudes about welfare policy.

*Id.* at 873.

8. See, e.g., *id.* at n.132 (citing MICHAEL LIND, *UP FROM CONSERVATISM: WHY THE RIGHT IS WRONG FOR AMERICA* 168 (1997) as rejecting the conservative criticisms of poverty relief programs such as those advanced by Charles Murray: “Lind not only abolishes the myth of an epidemic of illegitimacy, but provides an interesting account of why and how the issue came to be used as a weapon in the conservative rhetorical arena.”); JILL QUADANGO, *THE COLOR OF WELFARE: HOW RACISM UNDERMINED THE WAR ON POVERTY* (1994); Catherine R. Albiston & Laura Beth Nielson, *Welfare Queens and Other Fairy Tales; Welfare Reform and Unconstitutional Reproductive Controls*, 38 HOW. L.J. 473 (1995).

threatens to drive down wages, particularly in low-wage industries already rife with worker abuse and exploitation. Moreover, enhanced competition for poverty-wage jobs and the unavailability of a safety net render welfare recipients and workers alike increasingly desperate for work, thereby intensifying economic insecurity and decreasing workers' willingness or ability to demand more from their employers. These conditions also render the low-wage workforce more susceptible to division; poor and desperate people are put in competition with other poor and desperate people, fueling chauvinism and mistrust on the basis of ethnicity and immigration status. Thus, the benefit to employers is twofold: not only the depression of wages, but the frustration of worker-organizing efforts as well.

To understand the nature of the divisions created by welfare reform among poor populations, we need only look at the nation's immigrant workers. Immigrant workers are among the most vulnerable workers in the United States today, their sense of job security eviscerated by racial bias, language barriers, and fears of deportation. It is therefore no surprise that many of the most undesirable jobs in the country, from meat-packing and fruit-picking to dish-washing and taxi-driving, are performed by immigrants. Consider, then, the effect of Operation Jobs,<sup>9</sup> a pilot program of the INS in which employers in different parts of the country whose Latino workers were deported following INS raids were referred to welfare departments to have the jobs filled by mostly white and African American welfare recipients.<sup>10</sup> The deployment of welfare recipients not only replenishes the labor pool, but stirs a racial competition among blacks, whites and Latinos, salting the soil in which cross-cultural worker unity might otherwise have had a chance to grow.

For a second example, let me turn to my work in Los Angeles, where hundreds, if not thousands, of individuals in the welfare-to-work program are being placed in jobs in the garment industry. The Los Angeles garment industry is notorious for its sweatshop conditions, with workers typically making as little as three dollars an hour and constantly facing the threat of retaliatory firing for demanding higher wages. Many of the workers are undocumented,

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9. See *Combating Illegal Immigration: A Progress Report*, 105th Cong. 10 (1997) (testimony of George Regan, Acting Assoc. Comm'r of the Immigr. and Naturalization Serv., before the House Subcomm. on Immigr. and Claims).

10. See *Poverty and Welfare Reform*, 4(2) MIGRATION NEWS (Feb. 1997), available at [www.un.org/popin/popis/journals/migratn/mig9702.html](http://www.un.org/popin/popis/journals/migratn/mig9702.html).

and therefore face an additional, very real threat of deportation. For these and many other reasons, organizing garment workers has been a Herculean task—one which, thus far, has failed. Fewer than one percent of the more than 100,000 garment workers in Los Angeles are union members. The introduction of welfare recipients makes sweatshop conditions even worse, and makes the already tough job of organizing all the more difficult.

We tend to think of welfare reform as introducing work into the welfare system, but even prior to welfare-to-work, welfare has always been about work, workers, the labor market, and market ideology.<sup>11</sup> As Francis Piven and Richard Cloward describe, the development of the welfare state has historically been a “class accord,” a compromise between the need “to quell unrest” among the poor, who at critical points in American history have demanded state intervention to protect against their destruction by market forces, and the market’s competing need “to ensure a supply of low-wage labor.”<sup>12</sup> Thus, programs like unemployment insurance, disability benefits, and Social Security were permitted at times of economic hardship and social unrest – during the Depression, for example – but systematic attempts to scale back these programs have ensued in order to ensure that too many workers are not removed from the labor pool.<sup>13</sup> By providing some economic support to people who lose their jobs or become disabled, we reduce the necessity that they accept just any old job. Of course, this respect for human frailty, which is exactly the kind of respect that Peter urged upon us, flies in the face of market values, and therefore has fueled decades of business attempts to downsize the “welfare state,” – for surely, if there is anything that business is good at, it is downsizing.<sup>14</sup>

Welfare reform has left welfare recipients, and indeed has left all of us, in a terrible position. All we can do, it seems, is to attempt to soften the blow of an already swinging fist, rather than try to stop and reverse the cycle of violence. Peter understood that we were in a period of retrenchment, but he urged us not to give up, and in that spirit I want to offer a few words of encouragement.

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11. See FRANCES FOX PIVEN & RICHARD A. CLOWARD, *REGULATING THE POOR: THE FUNCTIONS OF PUBLIC WELFARE* 3 (2d ed. 1993) [hereinafter PIVEN & CLOWARD, *REGULATING THE POOR*] (describing how welfare regulates market forces and how it provides stability in capitalist societies where “instability [is] inherent”).

12. FRANCES FOX PIVEN & RICHARD A. CLOWARD, *THE BREAKING OF THE AMERICAN SOCIAL COMPACT* 185-86 (1997).

13. PIVEN & CLOWARD, *REGULATING THE POOR*, *supra* note 11, at 5-8.

14. See Peter Cicchino, *Defending Humanity*, 8(1) HUM. RTS. BRIEF 2, 3 (2000) (explaining that “[i]f a firm can double its profits by firing half its workforce and thereby destroying a community, the market’s imperative is no different.”).

Simply put, we cannot give up, not merely because the lives of others will suffer if we do, but because our own lives will suffer as well. As Peter insisted, our humanity depends upon defending the humanity of others.<sup>15</sup> The only way we can tolerate the violence wrought by unconstrained market forces is if we accede to the demand that humanity has no market value.<sup>16</sup> But so long as we work with poor and marginalized peoples, so long as we represent welfare recipients, fight for immigrants, defend criminal defendants, organize workers, stand up for the rights of gays and lesbians, and advocate for people with disabilities, we will be steeped in humanity. The humanity of others will be as undeniable as the humanity of ourselves.

Lastly, let me suggest that it is not only public interest lawyers who must resist market sway, it is the legal profession as a whole. For too long, we have been the willing accomplices of business forces. We must take Peter's prescription for what it means to live a good and happy life and make ours a good and happy profession, so that we may give real meaning to the term, "professional responsibility."<sup>17</sup>

As Professor Volpp mentioned, I am going to be joining the faculty here in a few months. While the decision to come to American University was in many ways a very easy one, I did give it a little bit of thought and tried to think about the points arguing in favor of my coming here. As part of that thought process I said to myself, "Well, Peter's here" – and then I had to catch myself and say, "No, Peter's not here anymore." But then it struck me: Peter is here still. That is the feeling I got when I came to visit here before, and that's the feeling I've had in the last couple of days that I've been here.

It would not be an understatement to say that the presence of Peter and the effect that he has had on this institution have been a large part of my decision to come to American University. I feel very privileged to be able to share this moment with you today, and to be part of a community that so welcomed Peter and continues to reflect the power and the values that he brought here.

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15. See *id.* at 4 ("[I]n my own life I have struggled with the question of what makes a good and happy life. I have become ever more convinced that struggling to secure the conditions for a decent human life for others is a large part of the answer.").

16. See *id.* (noting that "[c]apitalism is premised on the notion that human labor is a commodity . . .").

17. See *id.* ("[D]efending the human rights of others is itself a constituent part of leading a good and happy life.").

# AN INSPIRATION FOR POLITICAL LAWYERING:

WELFARE REFORM ACTIVISM IN THE DISTRICT OF COLUMBIA

ERIN M. LOUBIER\*

Peter Cicchino set an example for all of us about what it really means to be a political lawyer. I am very honored to be able to share in the celebration of Peter's ideas and his life. I hope that throughout my career I can live up to the ideal that Peter set about what it means to be a political lawyer.

Peter was a true intellectual, as well as an activist. While I hope that someone might call me an intellectual at some point, I am much more comfortable with my role as an activist. I think this is because any of us can be activists. You merely have to put yourself out there, work for the greater good, and care about the work you are doing — I think that is part of the essence of what it really is to be a political lawyer.

In this piece, I am going to discuss several issues surrounding welfare reform in the District of Columbia, and the political lawyering that many of us are working on to help people who are dealing and struggling with the issues imposed on them by the Welfare Reform Law of 1996.<sup>1</sup> However, before I do that I want to say a few words about my experiences here at the Washington College of Law ("WCL").

I am so proud to be a graduate of the Washington College of Law. I loved law school and I loved my experiences here. I chose to go to WCL because of its feminist founding,<sup>2</sup> because of the faculty, who

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1. See Personal Responsibility and Work Opportunity Act of 1996, Pub. L. No. 104-193, § 408, 110 Stat. 2105 (1996).

2. See JEAN S. SCHADE, *THE WASHINGTON COLLEGE OF LAW — A HISTORY, 1896-1949* 4-11 (1978) (documenting the background and careers of the two women who founded the Washington College of Law, Ellen Spencer Mussey and Emma M. Gillett).

were so supportive of doing public interest work, and because the school nurtures and creates the next generation of public interest lawyers.<sup>3</sup> These ideals meant a lot to me, and a lot to my experiences here. All of which have helped shape the work that I do.

I hope the picture that I paint of what is going on in the District of Columbia—which is just one example of what welfare reform looks like, because it has been implemented differently in every state<sup>4</sup>—motivates some students to want to come out and work on some of these issues. Due to the federal time limits, which will hit the District in 2002,<sup>5</sup> the need for your talents and legal skills is really great. The work we do helping people deal with welfare issues is very important.

I work on welfare reform issues in the context of disabilities: some of the barriers that people on welfare face, and some of the ways in which cities and states can actually help people overcome those barriers to help them move from welfare to work. I believe that there has to be a safety net—a safety net like Peter Cicchino described in his article *The Problem Child: An Empirical Survey & Rhetorical Analysis of Child Poverty in the United States*.<sup>6</sup> I quote him specifically, because his words are so eloquent:

None of the programs that constitute the current system of poor relief in the U.S. were designed to lift people out of poverty. The popular metaphor of a safety net is useful in this respect. A safety net does not keep one on one's feet, or prevent one from falling. It merely sets the lower, non-lethal limit to the depth of one's descent, and I think that is such an important thing.<sup>7</sup>

The fact that welfare reform changed in 1996,<sup>8</sup> and that entitlement to welfare benefits was essentially eliminated,<sup>9</sup> is almost unbelievable.

3. Compare NATIONAL DIRECTORY OF LAW SCHOOLS 6 (Nat'l Ass'n for Law Placement 2000) (providing that eight percent of the students from the WCL class of 1999 were employed by a public interest organization upon graduation), with JOBS & J.D.'S: EMPLOYMENT AND SALARIES OF NEW LAW GRADUATES, CLASS OF 1999 (Nat'l Ass'n for Law Placement 2000) (providing that only 2.8% of all 1999 law school graduates were initially employed in the public interest sector).

4. See U.S. DEP'T OF HEALTH & HUMAN SERVS., TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) PROGRAM, THIRD ANN. REP. TO CONG. 187-94 (2000) (concluding that state TANF plans show wide diversity).

5. See *id.* at 222-23 (noting that in March 2002 time limits for families receiving assistance will begin to expire).

6. See Peter Cicchino, *The Problem Child: An Empirical Survey and Rhetorical Analysis of Child Poverty in the United States*, 5 J.L. & POL'Y 5, 52 (1996) (discussing that current poor relief programs in the United States were never meant to "lift people out of poverty," but instead were designed to be safety nets).

7. *Id.*

8. See Personal Responsibility and Work Opportunity Act of 1996, Pub. L. No. 104-193, § 408, 110 Stat. 2105, 2105 (1996).

9. See *id.* at 2135 (outlining the prohibitions and requirements that must be met in order

There has to be a safety net for people, and the fact that there really is not one with the elimination of the right to welfare, makes doing my type of work so difficult. Thus, my focus is to provide a perspective on what the Welfare Reform Law of 1996<sup>10</sup> imposed, using the District of Columbia as a case example. Then I want to share with you some of the advocacy efforts that lawyers are making on behalf of clients in this area.

One of the major issues with the way welfare reform is structured in the District of Columbia is that welfare recipients do not receive a comprehensive assessment when they apply for welfare benefits, nor at any point while they are on welfare.<sup>11</sup> The Department of Health and Human Services is supposed to create an Individual Responsibility Plan<sup>12</sup> with each applicant for welfare benefits. that they sign. The plan includes assessment of how the welfare recipient is going to move from welfare to work.<sup>14</sup> However, in creating this plan there is an inherent assumption made that the Department of Health and Human Services worker knows the individual's needs, and in assessing the individual, what she will need to move from welfare to work.

Despite a District of Columbia law requiring an individual assessment to be performed to identify personal barriers, the Department of Human Services has not implemented any structure to identify these barriers or to conduct comprehensive assessments

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to qualify for assistance).

10. See *id.* at 2105.

11. See, e.g., D.C. CODE ANN. § 4-205.19d(a) (1999) (“[T]he mayor *may* make an assessment of the skills, prior work experience, employability, and barriers to employment of each TANF recipient . . .”) (emphasis added).

12. See Personal Responsibility and Work Opportunity Act of 1996, § 408, 110 Stat. at 2140. (dictating the responsibilities that agencies in the fifty states and the District of Columbia have in administering Temporary Assistance for Needy Families (“TANF”) benefits, including the creation of Individual Responsibility Plans with program recipients); see also D.C. CODE ANN. § 4-205.19d(b) (1999) (explaining that federal TANF recipients are required to sign an Individual Responsibility Plan that outlines steps for the recipient to acquire permanent private sector employment). Individual Responsibility Plans include an assessment of skills, work experience and training of each TANF recipient. See Personal Responsibility and Work Opportunity Act of 1996, § 408, 110 Stat. at 2140.

13. See Personal Responsibility and Work Opportunity Act of 1996, § 408, 110 Stat. at 2140. (dictating the responsibilities that agencies in the fifty states and the District of Columbia have in administering Temporary Assistance for Needy Families (“TANF”) benefits, including the creation of Individual Responsibility Plans with program recipients); see also D.C. CODE ANN. § 4-205.19d(b) (1999) (explaining that federal TANF recipients are required to sign an Individual Responsibility Plan that outlines steps for the recipient to acquire permanent private sector employment). Individual Responsibility Plans include an assessment of skills, work experience and training of each TANF recipient. See Personal Responsibility and Work Opportunity Act of 1996, § 408, 110 Stat. at 2140.

14. See D.C. CODE ANN. § 4-205.19d(b) (1999) (describing the plan as a way to “achieve self-sufficiency”).

during the application process.<sup>15</sup> Many welfare recipients face barriers to work.<sup>16</sup> These barriers include physical and mental health barriers, substance abuse problems, domestic violence, language barriers, and limited English skills.<sup>17</sup> As these barriers increase, the likelihood of employment certainly decreases.<sup>18</sup> As we witness the barriers that people face, the likelihood that they will be able to secure and maintain employment becomes very slim.

National estimates of the Temporary Assistance for Needy Families ("TANF"), or welfare population, is that one-fifth have a physical disability,<sup>19</sup> one-fourth have some serious mental health problem,<sup>20</sup> and twenty-percent have substance abuse problems.<sup>21</sup> In addition,

15. See D.C. CODE ANN. § 3-205.31 (explaining that welfare applicants must apply for benefits and the Mayor may then make a determination that they have barriers to employment due to physical or mental handicap); see also D.C. CODE ANN. § 4-205.19d(b) (providing only minimal procedures which the Mayor may follow in assessing welfare recipients, and lacking any comprehensive assessment steps).

The author would like to note that during the summer of 2001, the Department of Health and Human Services did create a pilot program that assesses new applicants for learning disabilities. However, currently this "assessment" amounts only to a simple questionnaire given only to new applicants at two locations in the District. This pilot program does not address barriers to employment faced by persons already on welfare in the District, the majority of whom were never assessed.

16. See SHEILA R. ZEDLEWSKI, THE URBAN INST., WORK-RELATED ACTIVITIES AND LIMITATIONS OF CURRENT WELFARE RECIPIENTS 3 (1999) (stating that some TANF recipients have difficulty transitioning into work because of physical disabilities, mental problems and substance abuse); see also GREGORY ACS & PAMELA LOPREST, THE URBAN INST., THE STATUS OF TANF LEAVERS IN THE DISTRICT OF COLUMBIA: FINAL REPORT 3 (2001) (concluding that former TANF recipients in the District of Columbia have difficulty finding jobs due to a lack of education and training).

17. See ZEDLEWSKI, *supra* note 15, at 3 (citing a study which concluded that nearly ninety percent of welfare recipients between the ages of twenty-seven and thirty-six exhibited one of the following barriers to employment: "low basic skills, substance abuse, a health limitation, depression, or a child with a chronic medical condition or serious disability."). See generally SANDRA DANZIGER ET AL., POVERTY & RESEARCH TRAINING CENTER, BARRIERS TO THE EMPLOYMENT OF WELFARE RECIPIENTS (analyzing employment barriers that impeded welfare recipients from complying with state agency work requirements, and providing empirical data on the barriers welfare recipients face), at <http://www.ssw.umich.edu/poverty/wesappam.pdf> (last visited Sept. 26, 2001).

18. See DANZIGER, *supra* note 16 (stating that the goals of the work participation program may not be met due to the difficulties caused by the existence of barriers to employment).

19. See EILEEN P. SWEENEY, CTR. ON BUDGET & POL'Y PRIORITIES, RECENT STUDIES INDICATE THAT MANY PARENTS WHO ARE CURRENT OR FORMER WELFARE RECIPIENTS HAVE DISABILITIES OR OTHER MEDICAL CONDITIONS 3 (2000) (stating that one-fifth of TANF recipients are limited in their ability to work due to physical disabilities).

20. See *id.* at 2 (noting that one-quarter to one-third of current TANF recipients have a serious mental impairment); see also U.S. DEP'T OF LABOR, RE-CHARTING THE COURSE: THE FIRST REPORT OF THE PRESIDENTIAL TASK FORCE ON EMPLOYMENT OF ADULTS WITH DISABILITIES (noting that upwards of twenty-eight percent of former welfare recipients suffer from a mental illness), available at [http://www.dol.gov/dol/\\_sec/public/programs/ptfead/1998rpt/1998rpt.txt](http://www.dol.gov/dol/_sec/public/programs/ptfead/1998rpt/1998rpt.txt) (Nov. 15, 1998).

21. See SWEENEY, *supra* note 18, at 3 (stating that research suggests that anywhere from two to twenty percent of TANF recipients have substance abuse problems); see also AM. PUB. HUMAN SVCS. ASS'N, BUILDING BRIDGES: STATES RESPOND TO SUBSTANCE ABUSE AND WELFARE REFORM 7

two-thirds of the District of Columbia population read between a third and fifth-grade level.<sup>22</sup> Most of the jobs in the District area are actually highly technical jobs, and require a significant number of skills and a higher education.<sup>23</sup>

In the District of Columbia, the lower-skilled jobs are mainly retail jobs.<sup>24</sup> Even a retail job requires an employee to have some basic math and reading skills.<sup>25</sup> So if you are reading at a third or fifth-grade level, you are certainly not going to be able to maintain that type of job. Similarly, a few more national statistics provide critical information to illustrate the issues facing welfare recipients returning to the workforce. For example, workers who lack a high school diploma earn a mean monthly income of approximately \$452, while workers who have a college degree earn roughly \$1,800.<sup>26</sup> A monthly income of \$452 does not come close to providing a safety net, and alone is certainly not capable of moving someone from welfare to work.

Returning to the time limit issue; the District of Columbia Department of Human Services says that approximately 2,400 families are going to lose federal cash assistance in March of 2002.<sup>27</sup> This

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(1999) (indicating that many studies have estimated that "fewer than twenty percent of TANF participants [need] to address their substance abuse problems.").

22. Compare U.S. DEP'T OF LABOR, *supra* note 19 (indicating that up to forty-percent of welfare recipients may have learning disabilities), with STEPHEN REDER, NAT'L INST. FOR LITERACY, THE STATE OF LITERACY IN AMERICA: SYNTHETIC ESTIMATES OF ADULT LITERACY PROFICIENCY AT THE LOCAL, STATE & NAT'L LEVELS (1992) (reporting that sixty-one-percent of the District of Columbia population falls into the two lowest levels of reading proficiency), available at <http://www.nifl.gov/reder/reder.htm> (last visited Feb. 9, 2002). Adults in Level 1 can read but are unable to complete an application or read a simple story to a child. *See id.* Adults in level two can perform more complex tasks such as comparing, contrasting, or integrating pieces of information, but cannot perform higher level reading and problem-solving skills. *See id.* Adults in levels three through five usually can perform the same types of more complex tasks on more lengthy texts. *See id.*

23. Cf. Press Release, Office of Mayor Anthony Williams, *Mayor Announces Plunge in Unemployment Rate to 4.9 Percent in April* (June 2, 2000) (noting that close to half of the new jobs created from April 1999 to April 2000 occurred in highly-skilled industries, including finance, insurance, legal services, and real estate), available at <http://dc.gov/mayor/news/release.asp> (last visited Sept. 26, 2001).

24. *See id.* (noting that job expansion in the District of Columbia from April 1999 to April 2000 was largely in the retail industry) Between April 1999 and April 2000, the trade industry in the District of Columbia grew by nine hundred jobs, all in retail. *Id.*

25. *See, e.g.,* Kristin Grimsley, *Applicants Not Making the Grade Skills Shortage Plagues Firms Digging Deeper into the Labor Pool*, WASH. POST, Apr. 13, 1999, at E1 (noting that "[m]ore than a third of job applicants nationwide lack the basic math and reading skills to do the jobs they are seeking, up from 19% in 1996, according to a new survey of more than 1,000 personnel.").

26. Cf. U.S. CENSUS BUREAU, CURRENT POPULATION REPORTS, P60-209, MONEY INCOME IN THE UNITED STATES: 1999 36 (2000) (reporting that total mean earnings for a male individual without a high school diploma is \$18,908, while the mean earnings for a male college graduate is \$57,706).

27. *See* CITY OF WASHINGTON, D.C., *Transitioning Families From Welfare to Work, in 2001-2002*

means that these families have exhausted their sixty-month right to welfare in this country.<sup>28</sup> These families cannot go to another state and get welfare and they cannot continue federal cash benefits.<sup>29</sup> Moreover, an additional 2,700 families will lose cash assistance sometime during that year.<sup>30</sup>

District of Columbia Mayor Anthony Williams has decided that the District is going to use local funds for people who are approaching the federal time limits, but do not deserve to be sanctioned because they are actually complying with program requirements.<sup>31</sup> The Williams Administration has expressed an overall commitment to preserving the "human service safety net for families with children."<sup>31</sup>

I am part of a coalition of District of Columbia advocates called the Welfare Advocates Group.<sup>33</sup> While we support the District's plan to continue cash assistance, we have some concerns. We believe that the District has not done a very good job of trying to make its Welfare-to-Work Program work. The program does not give people the tools that they need or were promised: like job training and assistance in overcoming some of the barriers that they may actually be facing.

Therefore, my concern is that, while I want the District of Columbia to provide a safety net, I worry that the Mayor's proposal has in some ways eliminated the pressure to make the Welfare-to-Work Program itself operate better. In order to make the District's Welfare-to-Work Program work, we need to examine what it takes to help people get the skills, training, and services that will actually help them move from welfare to work.

Other jurisdictions have raised these issues by challenging the use

POLICY AGENDA 10-1, 10-3-4 (2001) (noting that approximately twenty-five percent of current TANF recipients in District of Columbia, or 2,734 cases, have received TANF consistently since March 1997 and will face the March 2002 time limit), available at [http://www.washingtondc.gov/mayor/policy\\_agenda/index.shtml](http://www.washingtondc.gov/mayor/policy_agenda/index.shtml) (last visited Sept. 26, 2001).

28. See Personal Responsibility and Work Opportunity Act of 1996, Pub. L. No. 104-193, § 408, 110 Stat. 2105, 2137 (1996) (explaining that federal TANF benefits will cease after sixty months of receipt); D.C. CODE ANN. § 4-205.11a(a) (1999) (indicating that TANF recipients will not receive federal assistance after having received TANF benefits for sixty months).

29. See Personal Responsibility and Work Opportunity Act of 1996, § 408, 110 Stat. at 2137 (capping federal TANF benefits at sixty months, regardless of the recipient's location).

30. See CITY OF WASHINGTON, D.C., *supra* note 26. March 2002 marks the end of the sixty-month receipt of federal TANF benefits for some families in the District of Columbia. See *id.*

31. *Id.* at 10-4 (indicating that the District of Columbia will not revoke all financial assistance from TANF recipients who have not yet found adequate employment in the private sector because it may hurt poor families).

32. See *id.*

33. Welfare Advocates Group is a local coalition of family and child welfare agencies located in the District of Columbia. They assist District of Columbia residents with job placement and legal assistance.

of signed Individual Responsibility Plans as creating a contractual right to the services promised to the welfare recipients.<sup>34</sup> Thus, welfare recipients could potentially sue the District of Columbia by saying; “You did not adequately assess my barriers, so you have had me in an inappropriate work placement for four or five years.” They could sue and say the District did not provide to them what it said it was going to provide to them when they signed their Individual Responsibility Plans. The argument would be that the welfare recipients should be entitled to continued cash assistance, while the District then provides the recipient what it said it was going to provide initially.

In sum, I hope that my remarks have provided some context and detail on the issues facing advocates and recipients in the District of Columbia, and have provided a perspective on what welfare reform has meant to real life recipients.

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34. Cf. U.S. DEP'T OF HEALTH & HUMAN SVCS., *supra* note 3, at 214 (explaining that refusal by TANF recipients to engage in the work required by their Individual Responsibility Plans can result in various types of sanctions at the discretion of the state in which the participant lives, and the Individual Responsibility Plan in which they participate).

