REPORT: THE WAR ON DRUGS MEETS PUBLIC BENEFITS

(a Drug Policy Alliance publication)

INTRODUCTION

Everyone should have the resources to obtain basic necessities such as food and clothing. For many, public benefits provide a lifeline to ensure they can afford these necessities for themselves and their families. For example, the Temporary Assistance for Needy Families (TANF) program provides financial assistance and related support services to achieve economic stability, and the Supplemental Nutrition Assistance Program (SNAP) provides benefits to help families purchase healthy foods. These programs have helped many families out of deep poverty and improved numerous health and social outcomes.[1] But the war on drugs has limited access and deterred many people from accessing public benefits that could help support their families and improve health, safety, and wellbeing.

The war on drugs provided a rationale for states to limit access to public benefits, particularly to people of color living in poverty, in the name of deterring drug involvement. The illogical assumptions behind this rationale are that some people deserve help while others do not (i.e., people who use drugs do not deserve basic necessities); people are just trying to game the system and squander public money (e.g., the "welfare queen" stereotype); and people who use drugs are not and cannot be responsible community members. These attitudes have led to policies that effectively foreclosed public benefits support for many individuals and families in need, particularly for people of color.

This report retells the history of how these harmful and counterproductive policies came into being. The Drug Policy Alliance offers this report in the hopes that it will lead to a deeper discussion of the individual and collective harms that have been caused by a half-century of the drug war and its infiltration of public benefits systems.

THE FEDERAL STORY

In conjunction with the war on drugs-fueled increases in arrests and incarcerations for drug law violations and ideology of castigating people involved in drug-related activity, lawmakers across the country sought ways to restrict access to public benefits programs. The war on drugs helped to provide a colorblind, moral justification for welfare reform. This was accomplished in part by combining the false, yet established media-fed narrative of the "welfare queen" with the false, new media-fed narrative of "crack babies" during the 1980s.[2] These racially-coded terms were used to scapegoat poor Black and Latinx people, especially women, in order to stoke fear and loathing in the rest of the population. The twin anti-drug and anti-public benefits crusades of that period were an all-out attack on poor women of color that created an environment in which Congress could, during a period of extreme criminalization and punishment, enact laws to disqualify entire swaths of the population from needed public benefits, often for life. This section describes how federal public benefits policy has been driven by a drug war mentality and how that has severely hindered access to public benefits across the country.

Specific drug-related sanctions were added to certain federal assistance programs for the first time by the Anti-Drug Abuse Act of 1988. Passed during the last year of the Reagan presidency, the Act codified the war on drugs into federal law and declared that it was "the policy of the United States Government to create a Drug-Free America by 1995."[3] This 365-page omnibus bill left no stone unturned. Title V, called "User Accountability," denied certain federal benefits – namely all grants, loans (including student loans), licenses, and contracts – to people convicted of drug-related felonies.[4]

In 1996, the Contract with America Advancement Act eliminated Social Security Disability and Supplemental Security Income benefits and Medicare and Medicaid coverage for those whose drug or alcohol addiction is a "contributing factor material to their disability."[5] As a result, 209,000 individuals were abruptly disqualified from Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI), federal programs that provide assistance to disabled people.[6] The new standard functioned as a "but-for" test: if a person's disability would not exist but for continuing substance use, their claim will be denied. This is a difficult, if not impossible standard to apply in the real world, and it has been found that Social Security claim adjudicators tend to disqualify any history of substance use.[7]

That same year, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) was passed, imposing a lifetime ban on both cash assistance through Temporary Assistance for Needy Families (TANF) and Supplemental Nutrition Assistance Program (SNAP, known at the time as the Food Stamp Program) to people with felony drug convictions – unless a state chose to opt out of or modify the ban.[8] The Act also gave states the option of requiring applicants and recipients to submit to drug screenings, and depending on the results, drug tests in order to receive benefits. PRWORA also fundamentally restructured TANF to require that beneficiaries obtain employment, which has had targeted impacts on people with substance use disorders (SUDs).

Drug Screening and Testing of Applicants

As a direct result of PRWORA, over a quarter of states currently require people to undergo screening for drug use and, depending on the result, submit to a drug test prior to receiving TANF benefits.[9] Some states require that the TANF applicant pay for the drug test out of their own pocket, which can deter many who, by the nature of their application for benefits, have limited disposable income.[10] If the drug test indicates drug metabolites are in the person's system, they can be denied benefits or required to attend abstinence-based treatment in order to get the benefits (possibly paid out of the applicant's pocket).[11] Because drug tests can only determine presence of a drug metabolite in someone's body, not whether they have a substance use disorder, people may be required to attend treatment even if they do not need or want it. Refusal to submit to the drug screen or test can in itself be grounds for denial of benefits.

In 2016, less than one percent of people applying for TANF in states that require drug screening and testing ultimately tested positive. These states collectively spent more than one million dollars enforcing these policies in that year; this is money that could be used for more supportive services.

Drug testing TANF applicants is ineffective, expensive, and harmful to families in need. In 2016, less than one percent of people applying for TANF in states that require drug screening and testing ultimately tested positive.[12] These states collectively spent more than one million dollars enforcing these policies in that year; this is money that could be used for more supportive services.[13]

On the other hand, these policies deter people from applying and completing the enrollment process.[14] People who are afraid of testing positive may not apply and may not know that they can apply on behalf of their children. Even if they do apply for their children, the lack of benefits for the adult may mean that there is not enough support for the family.[15] The cost of paying for a drug test can be too big a hurdle for families with low incomes. Attending and paying for treatment, which may not be necessary because the applicant may not have a substance use disorder, poses a major barrier for people struggling to provide basic needs for their families. With all these obstacles in the way, many people decide not to apply or finish enrollment and forgo the benefits that would help their family gain financial security.

Today, nine states permanently bar people with felony drug convictions from TANF benefits and one does so for SNAP benefits. Over half of states have instituted modified bans to limit TANF and SNAP eligibility for people with felony drug convictions.

Despite the cost, ineffectiveness, and harm, many states have tried to make all TANF applicants, not just those who are identified by a screening, submit to a drug test in order to receive benefits but have been forced to stop due to court rulings that these policies would be unconstitutional.[16] More recently, states have tried to extend drug testing requirements to other public benefits programs like SNAP, Medicaid, and Unemployment Insurance. States have not been that successful with implementing drug testing in these other programs, but many continue to try.[17]

Felony Drug Conviction Ban

On the morning of July 23, 1996, Senator Phil Gramm (R-TX) rose before the Senate to introduce his amendment to the pending public benefits reform legislation. Hoping that the amendment would be accepted by a voice vote, but willing to take the one minute granted to him to explain its intent, Senator Gramm said:

> *"What my amendment does is denies means-tested benefits to people who are convicted of possessing, using, or selling drugs. In minor cases, they lose welfare for five years. In major cases, they lose it for life...the bottom line is, if we are serious about our drug laws, we ought not to give people welfare benefits who are violating the Nation's drug laws."*[18]

The Gramm Amendment passed easily by a margin of 74 to 25 and would subsequently become Section 115 of PRWORA. In its final version, it subjected people convicted of drug felonies to a lifetime ban on receiving federally funded cash assistance and food stamps. Although states could opt out of this ban, many did not.[19]

That same year, the country's incarcerated population reached an all-time high of 1,182,169 – more than double what it had been a decade earlier – and the number of women incarcerated rose by an unprecedented 9.1 percent.[20] At year-end, 74,730 women were in state or federal prison, representing a threefold increase since 1986.[21] In searching for an explanation for this ballooning population of incarcerated women, we need look no further than the war on drugs.

In fact, women were the fastest growing category of people being incarcerated for drug-related law violations. From 1983 to 1994 the number of women arrested for drug law violations increased 91.8 percent. By 1996, more than 60 percent of women under the custody of the Federal Bureau of Prisons were serving drug sentences, and drug law violations accounted for a dramatic proportion of the rise in the number of women sentenced to state prison from 1986 to 1996.[22] The number of women in state prisons for drug law violations rose by 888 percent during that decade.[23] That trend would continue into the 2000s.

Today, nine states permanently bar people with felony drug convictions from TANF benefits and one does so for SNAP benefits.[24] Over half of states have instituted modified bans to limit TANF and SNAP eligibility for people with felony drug convictions.[25] Reentry into the community continues to be a nightmare, as people confront not only the stigma of a conviction but denial of the most basic means of survival as they attempt to get back on their feet, regain custody of their children, secure safe and affordable housing, and find employment. Disqualifying people from public benefits based on a felony drug conviction is inhumane and counterproductive because public benefits, when adequately funded, are effective at lifting people out of poverty and reduce the risk of returning to jail or prison.[26]

Work Requirements

In addition to the felony drug conviction ban, drug screening, and drug testing requirements, PRWORA introduced several fundamental changes to the country's public benefits system that created additional burdens for all low-income families. These include a five-year lifetime limit on federally funded aid and requirements to find work within two years of receiving aid. Failure to find work can result in sanctions, up to and including the termination of benefits.[27] Numerous studies have found

that sanctioned recipients suffer from more serious barriers to employment and are more likely to have health problems, including substance use disorders.[28] As would be expected, sanctioned families face severe hardships when their already inadequate public benefits are taken away, even briefly, and children are at special risk. One study found that young children in sanctioned families were at an increased risk of hunger (i.e., food insecurity) and emergency hospitalizations.[29]

The prevalence of substance use disorders among TANF recipients is unknown, with estimates ranging from 3 to 39 percent.[30] One study found that 20 percent of TANF recipients reported illicit drug use within the past year, although only about 4 percent met criteria for drug dependence.[31] But we do know that having a substance use disorder is a significant obstacle to employability among people on TANF who face multiple systemic barriers such as low education, low job skills, limited work experience, and sometimes an arrest or conviction record. In one study of TANF recipients with substance use disorders, more than half had not completed high school, half reported no job skills, and only 19 percent had worked regularly in the previous three years.[32] Half were diagnosed as suffering from major depression or post-traumatic stress disorder, over half had been arrested, and 25 percent had been incarcerated.[33] The "work first" ideology upon which TANF is based is a setup for failure.

The passage of PRWORA significantly reduced the country's public assistance rolls, from 14.2 million individuals in 1994 to 6.3 million in 2000, and conservatives point to that drop as evidence of public benefits reform's "success."[34] Rather than a sign of success, the drop in the number of families receiving assistance has translated into deepening poverty over time.

> *"Because TANF reaches so many fewer families than [Aid to Families with Dependent Children] did, it provides substantially less protection against poverty and deep poverty. In 1996, 68 families received TANF for every 100 families in poverty; in 2016 only 23 families received TANF for every 100 families in poverty. The share of children living in deep poverty has increased since welfare reform was implemented."*
> *– Center on Budget and Policy Priorities*[35]

Lawmakers bent on restructuring public benefits used the war on drugs to create a system that stigmatizes and disenfranchises many low-income people in need. Drug screening and testing requirements, felony drug conviction bans, and work requirements all contributed to significant reductions of people receiving public benefits across the country. The message that there are some people with low income who deserve help, while others, especially those who use drugs, do not, continues to influence policy and hurt low-income families today.

CASE STUDY: THE NEW YORK STORY

While New York State opted out of both the TANF and SNAP benefit bans after the federal welfare reform law was passed, New York is also somewhat unique in that the state constitution requires care for low-income New Yorkers.[36*] While some states have no state-funded general assistance programs and rely exclusively upon federal funding, New York law mandates continued public benefits for all families and individuals in need. During the mid-1990s, however, low-income New Yorkers were not spared from the stigma, harsh rules, and penalties that characterized nationwide public benefits law changes and the escalation in drug law enforcement which targeted poor communities of color and led to a huge increase in the number of people with substance use disorders who were swept into the criminal legal system.

Between 1977 and 2004, New York's population of women in prison grew by 445 percent and peaked at 3,728 in 1996, the year the PRWORA was enacted.[37] Drug law violations accounted for 91 percent of the increase in the number of women sentenced to prison from 1986 to 1995.[38]

In 1997, the state passed its Welfare Reform Act, with the strong support of then-Republican Governor George Pataki. The state's version of TANF was replaced with Family Assistance, and Home Relief (for adults with no children) was replaced with Safety Net Assistance.[39] The Act brought the state's public assistance program in line with the new federal law by imposing a time limit on

* Article XVII, Section 1 reads, "The aid, care, and support of the needy are public concerns and shall be provided by the state and by such of its subdivisions, and in such manner and by such means, as the legislature may from time to time determine."

cash assistance and work requirements on recipients. In August 1996, the total number of TANF recipients was 1.14 million statewide, with 779,284 of them in New York City.[40] By December 1999, both the state and city's caseloads had dropped by 33 percent.[41]

With the Welfare Reform Act, an applicant's or recipient's drug use became a subject of inquiry. New York's Social Service Law required – and still requires – that all applicants be screened for alcohol and/or substance use "using a standardized screening instrument," and that if the screening indicated there was a problem, a formal assessment, "which may include drug testing," would be performed by a professional credentialed by the Office of Alcoholism and Substance Abuse Services (OASAS).[42] If found "unable to work by reason of their need for treatment," a referral would be made to a licensed treatment program.[43] Under the Social Service Law, "substance abuse" screening, followed by assessment if deemed warranted, is mandatory and refusal to submit disqualifies a person from benefits. Refusal to participate in the mandated treatment program, or leaving the program before completion, also leads to disqualification for a period of time – meaning no cash benefits.[44]

Under the Social Service Law, "substance abuse" screening, followed by assessment if deemed warranted, is mandatory and refusal to submit disqualifies a person from benefits. Refusal to participate in the mandated treatment program, or leaving the program before completion, also leads to disqualification for a period of time – meaning no cash benefits.

In New York City, former federal prosecutor Rudolph Giuliani began his two-term mayoralty in 1994 with promises to bring back law and order and end public benefits before the end of the century.[45] Giuliani was openly hostile to low-income people.[46] In his view, poverty was largely the product of the failure of individual will, rather than a symptom of a flawed socioeconomic system.[47] He viewed drug use as the result of poor choices.[48] He and his first Police Commissioner, William Bratton, adopted an aggressive strategy of arresting people for minor quality-of-life offenses, using the flawed broken windows policing theory and model. These kinds of arrests along with the upsurge in arrests for possession and sale of crack cocaine were responsible for a huge spike in the city's jail population so that by the middle of Giuliani's first term, the population of the Rikers Island jail complex had ballooned to 24,000 people.[49]

Bratton also brought CompStat to New York City, a crime mapping technology that targets areas deemed high crime by an algorithm, for intensified law enforcement. It led to years of hyper-policing in low-income communities of color and the initiation of a marijuana arrest crusade which arrested and jailed more than 353,000 people – overwhelmingly people of color – for simple possession between 1997 and 2006.[50] An explosion of "stop-and-frisk" encounters between the police and residents of housing projects and other poor Black and Latinx neighborhoods, and a de facto arrest quota system imposed on officers by precinct commanders, swept thousands more people into the criminal legal system. [51]

Giuliani's hostility to low-income people who use drugs was also open and notorious. Early in his first term, in 1994, he announced a new "work-for-welfare" plan requiring single, childless people who said they could not work for medical reasons to undergo a medical exam and drug test in order to get benefits.[52] If they tested positive, they would be required to enroll in a drug treatment program in order to receive benefits.[53] But the relative scarcity of publicly funded drug treatment slots made this requirement impossible to meet.[54*] In 1998, Giuliani called for the ending of methadone maintenance treatment on the grounds that it fostered "new forms of dependency."[55] The proposal was presented as part of the city's plan to expand work requirements to almost everybody on public assistance.[56**] In 1999, he

* According to the Substance Abuse and Mental Health Services Administration (SAMHSA), there were only 71,000 publicly funded drug treatment slots in New York State at that time and estimates of the number of people needing drug treatment ranged from 246,000 to 860,000.

** At that time, there were about 36,000 methadone patients in the city, an unknown number of them receiving benefits. Six months later, after vigorous push back from both providers and advocates, the mayor abandoned the plan.

Giuliani's hostility to low-income people who use drugs was also open and notorious. Early in his first term, in 1994, he announced a new "work-for-welfare" plan requiring single, childless people who said they could not work for medical reasons to undergo a medical exam and drug test in order to get benefits.

announced that his administration was planning to search thousands of medical billing records for evidence that public benefits applicants had sought treatment for drug or alcohol problems.[57] The evidence would be used to place public benefits applicants in mandatory treatment programs as a condition of receiving benefits.[58]

Mayor Guiliani's disdain for public benefits and for people who use drugs seeped into the Human Resources Administration/Department of Social Services (HRA/DSS), the agency tasked with administering cash and food assistance programs. In an evaluation of how the HRA/DSS had handled cases involving people with substance use disorders, the New York City Bar Association found:

- *"HRA's efforts to address substance [use] issues have often disregarded the rights of the recipients and ignored the judgments of treatment providers and professionals"*
- *"HRA [adopted] its own procedural guidelines to which treatment providers must adhere as a condition of receiving HRA referrals," including "characterizing relapse as non-compliant behavior, mandating treatment for all relapses, using untrained HRA staff to oversee the transfer of treatment clients between different levels of care, and wide-spread use of urinalysis"*
- *"HRA routinely assign[ed] recipients to both treatment and work activities..." which for many ensured that they would be "sanctioned for alleged non-cooperation"*
- *"HRA [had] yet to develop practical and humane treatment programs that support full recovery in [public benefits] recipients, preferring to rely on punitive measures that [did] not move clients to functional independence."*[59]

Mandatory, time-limited treatment with its rigid requirements and unforgiving approach to relapse is inconsistent with what years of research and observation have taught us about treating substance use disorders. Instead, treatment should be offered on a voluntary, ongoing basis and tailored to individual needs with the understanding that continued use is expected.[60]

These harsh policies have likely contributed to the very negative consequences they are supposedly designed to prevent. One study of public benefits recipients who use drugs in New York found that public benefits reform was forcing people to become more desperate and causing them to turn to the underground economy, especially selling drugs and engaging in sex work, in order to survive.[61]

In response to PRWORA, New York adopted strict requirements for public benefits that closed off this source of support for many low-income New Yorkers, including those who use drugs. Animus against people with low incomes and people who use drugs effectively shut many families and individuals out of receiving the services that could help them to have more financial stability. Communities of color have experienced the brunt of the harm from these policies.

WHERE WE ARE TODAY

Mayor Bill de Blasio, who based his successful campaign on ending "a tale of two cities" by attacking income inequality, has made the overhaul of the public benefits system a priority. By appointing Steven Banks, former Attorney-in-Chief of the Legal Aid Society, as HRA Commissioner, de Blasio signaled a break with the work-first, sanction-heavy approach of his predecessors. Early in his tenure, Banks announced that the contentious Giuliani-era Work Experience Program (WEP), which funneled recipients into unpaid jobs in

return for benefits, would be phased out. Instead, the HRA would emphasize training and education over immediate placement into jobs that did not lead to long-term employability.[62] HRA would also "[p]rovide client-centered services for those with substance use disorders, including [h]arm [r]eduction programs for clients with histories of non-compliance with traditional substance use treatment based on existing successful government-supported program models."[63]

Since de Blasio took office in 2014, the HRA's caseload has gone up and its monthly sanction average has gone down.[64*] But the promise of "client-centered services for those with substance abuse disorders" is very much a work in progress.

* The HRA's caseload increased from 350,000 in 2013 to 560,000 in 2017, and there was a monthly average of 5,710 recipients in sanction status in 2017 compared to 20,571 in 2013.

CONCLUSION

The anti-drug and anti-public benefits crusades, which dominated public discourse in the 1980s and 1990s, targeted and stigmatized low-income people of color, especially women. Both crusades, with their rhetoric of "personal responsibility," "decline in family values," and "culture of dependency" relieved elected leaders of their responsibility to address the real needs of the country's low-income population at a time of economic retrenchment and concentrated poverty. The war on drugs provided another avenue for lawmakers to foreclose public benefits access to people in need. Instead of receiving treatment or support, people who use drugs and people with substance use disorders were vilified and punished for their drug use. The suffering caused by these policies will reverberate for decades to come. We must uproot the drug war from our public benefits systems and provide the support families need to thrive.

Acknowledgments

Almost five years after Drug Policy Alliance's "White Faces, Black Lives" conference and 50 years after Richard Nixon's declaration of the war on drugs, DPA releases these historical reports and accompanying resources to document the massive reach of the drug war, both within and beyond the criminal legal system. As more and more of the public calls for an end to decades of punitive drug policy, we must understand the deep roots of the drug war across systems, and we must stay attuned to ways in which the drug war warps and sinks its roots deeper into our lives.

In 2016, DPA's New York Policy Office and the Department of Research and Academic Engagement hosted "White Faces, Black Lives," a conference that convened organizers, researchers, and policymakers to combat the increasingly popular but misguided viewpoint that we were entering a kinder, gentler era of the drug war because the face of the opioid crisis was white. Black people, particularly Black people who use drugs and their family members, knew that not only were Black people being impacted by the overdose crisis but that, despite decades of positive reforms, the drug war was far from over. After meetings with people directly impacted by the drug war and family law, education, employment, immigrant, housing, treatment, and justice movement partners, DPA then launched "Color of Pain," a website documenting the role of racism in drug policy and mapping the wide scope of the drug war.

The publication of "Uprooting the Drug War" is possible because of a rich legacy of writers, thinkers, partners, and doers within and beyond the drug policy reform movement. This project - and past, present, and future organizing and advocacy to end the drug war - is enriched by the experience and expertise of people who use drugs, incarcerated and formerly incarcerated people, and all people harmed by the drug war. A profound thank you to Elizabeth Brico, Lauren Johnson, Steven Mangual, Miguel Perez Jr., Emily Ramos, and Jasmin Reggler for sharing and documenting their stories in these reports of how the drug war has impacted their lives and the lives of their loved ones. Deep gratitude to our movement partners who shared their insight and expertise and were willing to review drafts of these reports and provide indispensable feedback: Mizue Aizeki, Erin Burn-Maine, Gabrielle de la Guéronnière, Jeanette Estima, Tommasina Faratro, Kesi Foster, Nancy Ginsburg, Shayna Kessler, Emma Ketteringham, Amber Khan, Pamela Lachman, Marie Mark, Roberta "Toni" Meyers Douglas, Erin Miles Cloud, Tracie Gardner, Johanna Miller, Jeffrey A. Nemetsky, Victoria Palacio, Lisa Sangoi, Christopher Watler, and Alison Wilkey. We are also grateful to the organizations who took part in building our understanding in so many areas: Bronx Defenders, Brooklyn Community Housing and Services, Center for Employment Opportunities, Federation of Protestant Welfare Agencies, Immigrant Defense Project, John Jay College Institute for Justice and Opportunity, Legal Action Center, Legal Aid Society, Make the Road New York, Movement for Family Power, National Advocates for Pregnant Women, New York Civil Liberties Union, and Vera Institute. Current and former members of DPA's New York Policy Office conceptualized this project and saw it through until its publication: thank you to Chris Alexander, Kassandra Frederique, Dionna King, Kristen Maye, Melissa Moore, Elena Riecke, Christiana Taylor, and Tejas Venkat-Ramani. Members of DPA's Policy Team Aliza Cohen, Lindsay LaSalle, Jules Netherland, and Kellen Russoniello assisted in editing these reports. DPA expresses profound appreciation to Loren Siegel, a longtime DPA thought partner and the principal author of these historical reports.

Principal Author: Loren Siegel

Endnotes

1 Arloc Sherman, "Economic Security Programs Help Low-Income Children Succeed Over Long-Term, Many Studies Find," Center on Budget and Policy Priorities, July 17, 2017, https://www.cbpp.org/research/poverty-and-inequality/economic-security-programs-help-low-income-children-succeed-over; Center on Budget and Policy Priorities, "Policy Basics: Temporary Assistance for Needy Families," Center on Budget and Policy Priorities, February 6, 2020, https://www.cbpp.org/research/family-income-support/temporary-assistance-for-needy-families#:~:text=While%20TANF%20benefits%20are%20too,benefits%20than%20received%20AFDC%20benefits; Laura Tiehen, Dean Jolliffe, and Craig Gundersen, "Alleviating Poverty in the United States: The Critical Role of SNAP Benefits," USDA Economic Research Service, April 2012, http://www.ers.usda.gov/publications/pub-details/?pubid=44965; and Douglas Almond, Hilary W. Hoynes, and Diane Whitmore Schanzenbach, "Inside the War on Poverty: The Impact of Food Stamps on Birth Outcomes," *Review of Economics and Statistics* 93, no. 2 (May 2011): 387–403, https://doi.org/10.1162/REST_a_00089.

2 Attacking public benefits fraud was a big part of Ronald Reagan's stump speech while running in the Republican primaries in 1976, and despite the lack of truth to the claim, the media soon popularized the "welfare queen" buzzword. The Washington Star, "'Welfare Queen' Becomes Issue in Reagan Campaign, *New York Times*, February 15, 1976, https://www.nytimes.com/1976/02/15/archives/welfare-queen-becomes-issue-in-reagan-campaign-hitting-a-nerve-now.html. See Josh Levin, *The Queen: The Forgotten Life Behind an American Myth* (Boston: Little, Brown, 2019)—an exposé of the "welfare queen" trope. In fact, there is no such thing as a "crack baby." Testifying before the U.S. Sentencing Commission in 2002, Deborah Frank, M.D., a professor of pediatrics at the Boston University School of Medicine, said, "Based on years of careful research, we conclude the crack baby is a grotesque media stereotype, not a scientific diagnosis. "U.S. Sentencing Commission Hearing 2/25/02: Cocaine Pharmacology, 'Crack Babies,' Violence," *Federal Sentencing Reporter* 14, no. 3-4 (November/December 2001–January/February 2002): 191–225, https://www.jstor.org/stable/10.1525/fsr.2001.14.3-4.191?seq=1#page_scan_tab_contents.

3 Anti-Drug Abuse Act of 1988, Title V, Subtitle F, Sec. 5152.

4 M. McCarty, et al., "Drug Testing and Crime-Related Restrictions on TANF, SNAP, and Housing Assistance," *Journal of Drug Addiction, Education and Eradication* 8, no. 2/1 (2012).

5 Mikki D. Waid and Sherry L. Barber, "Follow-up of Former Drug Addict and Alcoholic Beneficiaries," Social Security Office of Policy, October 2001, https://www.ssa.gov/policy/docs/rsnotes/rsn2001-02.html.

6 Dru Stevenson, "Should Addicts Get Welfare? Addiction & SSI/SSDI," *Brooklyn Law Review* 68, no. 1 (2002): 185.

7 *Ibid.*

8 Marc Mauer and Virginia McCalmont, "A Lifetime of Punishment: The Impact of the Felony Drug Ban on Welfare Benefits," The Sentencing Project, November 14, 2013, https://www.sentencingproject.org/publications/a-lifetime-of-punishment-the-impact-of-the-felony-drug-ban-on-welfare-benefits.

9 Darrel Thompson, "Drug Testing and Public Assistance," CLASP, February 2019, https://www.clasp.org/sites/default/files/publications/2019/02/2019_drug%20testing%20and%20public%20_0.pdf.

10 *Ibid.*

11 *Ibid.*

12 Bryce Covert, "States Spend Millions to Drug Test the Poor, Turn up Few Positive Results – ThinkProgress," Think Progress, March 29, 2019, https://thinkprogress.org/states-spend-millions-to-drug-test-the-poor-turn-up-few-positive-results-81f826a4afb7.

13 *Ibid.*

14 Maggie McCarty, Gene Falk, Randy Alison Aussenberg, and David H. Carpenter, "Drug Testing and Crime-Related Restrictions in TANF, SNAP, and Housing Assistance," Congressional Research Service, November 28, 2016, https://fas.org/sgp/crs/misc/R42394.pdf; U.S. Department of Health and Human Services, "Drug Testing Welfare Recipients: Recent Proposals and Continuing Controversies," ASPE Issue Brief, October 2011, https://aspe.hhs.gov/basic-report/drug-testing-welfare-recipients-recent-proposals-and-continuing-controversies.

15 Matt Lewis, "Random Drug Testing of TANF Recipients Is Costly, Ineffective, and Hurts Families," CLASP, June 16, 2009, https://www.issuelab.org/resources/3147/3147.pdf.

16 Darrel Thompson, "Drug Testing and Public Assistance," CLASP, February 2019, https://www.clasp.org/sites/default/files/publications/2019/02/2019_drug%20testing%20and%20public%20_0.pdf.

17 *Ibid.*

18 142 Cong. Rec. 109 at S8498.

19 Marc Mauer and Virginia McCalmont, "A Lifetime of Punishment: The Impact of the Felony Drug Ban on Welfare Benefits," The Sentencing Project, November 14, 2013, https://www.sentencingproject.org/publications/a-lifetime-of-punishment-the-impact-of-the-felony-drug-ban-on-welfare-benefits.

20 Christopher J. Mumola and Allen J. Beck, "Prisoners in 1996," Bureau of Justice Statistics, June 1997, https://www.bjs.gov/content/pub/pdf/p96.pdf.

21 *Ibid.*

22 Marc Mauer, Cathy Potler, and Richard Wolf, "Gender and Justice: Women, Drugs, and Sentencing Policy," The Sentencing Project, November 1999, https://static.prisonpolicy.org/scans/sp/genderandjustice.pdf.

23 *Ibid.*

24 Darrel Thompson," Recent State Efforts on Felony Bans Underscore Case for Federal Action," CLASP, May 29, 2019, https://www.clasp.org/blog/recent-state-efforts-felony-bans-underscore-case-federal-action.

25 The Network for Public Health Law, "SNAP Ban of Persons with Drug Felony Convictions," The Network for Public Health Law, April 2020, https://www.networkforphl.org/wp-content/uploads/2020/04/50-State-Survey-SNAP-Felony-Ban-Updated-1.pdf.

26 Arloc Sherman, "Public Benefits: Easing Poverty and Ensuring Medical Coverage," Center on Budget and Policy Priorities, August 17, 2005, https://www.cbpp.org/research/public-benefits-easing-poverty-and-ensuring-medical-coverage#:~:text=There%20are%20two%20principal%20categories,with%20low%20or%20modest%20incomes.&text=Means%2Dtested%20programs%20play%20a,care%20to%20low%2Dincome%20Americans; and Crystal S. Yang, "Does Public Assistance Reduce Recidivism?" *American Economic Review: Papers and Proceedings* 107, no. 5 (June 2017): 551–555, http://www.law.harvard.edu/programs/olin_center/papers/pdf/Yang_920.pdf.

27 Isabel V. Sawhill, R. Kent Weaver, and Ron Haskins, "Welfare Reform Reauthorization: An Overview of Problems and Issues," Brookings, January 3, 2001, https://www.brookings.edu/research/welfare-reform-reauthorization-an-overview-of-problems-and-issues.

28 Vicki Lens, "Work Sanctions Under Welfare Reform: Are They Helping Women Achieve Self-Sufficiency?" *Duke Journal of Gender Law & Policy* 13 (2006): 255–284, https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1106&context=djglp.

29 John T. Cook et al., "Welfare Reform and the Health of Young Children: A Sentinel Survey in 6 US Cities," cited in Vicki Lens, "Work Sanctions Under Welfare Reform: Are They Helping Women Achieve Self-Sufficiency?" *Duke Journal of Gender Law & Policy* 13 (2006): 255–284, https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1106&context=djglp.

30 Sunny Hyuck Sun Shin and Sam Choi, "State Response to Substance-Abusing TANF Recipients: The Challenge for Welfare Policy," *Journal of Policy Practice* 6, no. 1 (2007): 65–83, https://www.tandfonline.com/doi/abs/10.1300/J508v06n01_05.

31 Ellen Benoit, Rebecca Young, Stephen Magura, and Graham L. Staines, "The Impact of Welfare Reform on Methadone Treatment: Policy Lessons from Service Providers in New York City," *Substance Use & Misuse* 39, no. 13-14 (2004): 2355–2390, https://www.ncbi.nlm.nih.gov/pubmed/15603008.

32 Jon Morgenstern, Annette Riordan, Barbara S. McCrady, Kimberly Blanchard, Katherine H. McVeigh, and Thomas W. Irwin, "Barriers to Employability Among Women on TANF With a Substance Abuse Problem," U.S. Department of Health and Human Services, June 3, 2015, https://aspe.hhs.gov/system/files/pdf/139291/barriers_employ.pdf.

33 *Ibid.*

34 Robert Rector, "Welfare Reform: Two Decades of Success," *National Review,* August 17, 2016, https://www.nationalreview.com/2016/08/welfare-reform-successful-statistics.

35 Center on Budget and Policy Priorities, "Policy Basics: Temporary Assistance for Needy Families," Center on Budget and Policy Priorities, February 6, 2020, https://www.cbpp.org/research/policy-basics-an-introduction-to-tanf.

36 Article XVII, Section 1 reads, "The aid, care, and support of the needy are public concerns and shall be provided by the state and by such of its subdivisions, and in such manner and by such means, as the legislature may from time to time determine."

37 Natasha Frost, Judith Greene, and Kevin Pranis, "Hard Hit: The Growth in the Imprisonment of Women, 1977–2004," Institute on Women & Criminal Justice, May 2006, http://csdp.org/research/HardHitReport4.pdf.

38 *Ibid.*

39 Lynne Fender, Carolyn T. O'Brien, Terri Thompson, Kathleen Snyder, and Roseana Bess. "Recent Changes in New York Welfare and Work, Child Care, and Child Welfare Systems." Urban Institute, September 26, 2002, https://www.urban.org/research/publication/recent-changes-new-york-welfare-and-work-child-care-and-child-welfare-systems.

40 *Ibid.*

41 *Ibid.*

42 New York Consolidated Laws, Social Services Law–SOS Sec. 132.

43 *Ibid.*

44 *Ibid.*

45 Demetra Smith Nightingale, Nancy Pindus, Fredrica D. Kramer, John Trutko, Kelly Mikelson, and Michael Egner, "Work and Welfare Reform in New York City During the Giuliani Administration: A Study of Program Implementation," Urban Institute, July 2002, http://webarchive.urban.org/publications/410542.html.

46 New York City Bar Association, "Welfare Reform in New York City: The Measure of Success," Summer 2001, https://www2.nycbar.org/Publications/record/summer01.pdf.

47 Rebecca L. Scharf, Barry Bassis, Lorraine Doran, Benjamin DeWitt Duke, Donald Friedman, and Matthew Schneider, "The Wages of Welfare Reform: A Report on New York City's Job Centers," *Scholarly Works* 587 (1999), https://scholars.law.unlv.edu/facpub/587.

48 *Ibid.*

49 Mary E. Buser, "How Rikers Drive My Innocent Patient to Plead Guilty," *Politico,* October 6, 2015, https://www.politico.com/magazine/story/2015/10/rikers-island-plea-bargains-213223.

50 Harry Levine and Loren Siegel, "Unjust and Unconstitutional: 60,000 Jim Crow Marijuana Arrests in in Mayor de Blasio's New York," Drug Policy Alliance & Marijuana Arrest Research Project, July 2017, http://marijuana-arrests.com/docs/Marijuana-Arrests-NYC--Unjust-Unconstitutional--July2017.pdf.

51 *Ibid.*

52 Alison Mitchell, "Drug Screening to Be Required for Some Welfare Recipients," *New York Times,* November 17, 1994.

53 *Ibid.*

54 Human Rights Watch, "Cruel and Unusual: Disproportionate Sentences for New York Drug Offenders," *Human Rights Watch* 9, no. 2 (B), March 1997, https://www.hrw.org/legacy/reports/1997/usny.

55 *New York Times,* "Mayor's Crusade Against Methadone," August 18, 1998, https://www.nytimes.com/1998/08/18/opinion/the-mayor-s-crusade-against-methadone.html.

56 David L. Lewis, "End Drug Aid, Giuliani Says Methadone Hit in Reform Plan," *Daily News,* July 21, 1998.

57 Nina Bernstein, "Welfare Officials to Search Records of Drug Treatment," *New York Times,* September 15, 1999. Again, Giuliani was forced to abandon the idea after much public criticism that the searches would violate federal confidentiality laws. Rachel L. Swarns, "Mayor Relents on Plan to End Methadone Use," *New York Times,* January 16, 1999, https://www.nytimes.com/1999/01/16/nyregion/mayor-relents-on-plan-to-end-methadone-use.html.

58 New York City Bar Association, "Welfare Reform in New York City: The Measure of Success," Summer 2001, https://www2.nycbar.org/Publications/record/summer01.pdf.

59 *Ibid.*

60 National Institute on Drug Abuse, "Drugs, Brains, and Behavior: The Science of Addiction," https://www.drugabuse.gov/publications/drugs-brains-behavior-science-addiction/treatment-recovery (accessed January 28, 2021).

61 Eloise Dunlap, Andrew Golub, and Bruce D. Johnson, "The Lived Experience of Welfare Reform in Drug-Using Welfare-Needy Households in Inner-City New York," *Journal of Sociology and Social Welfare* 30, no. 3 (September 2003): 39–58, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4222506.

62 New York City Department of Social Services, "Testimony of Steven Banks, Commissioner," May 15, 2017, https://www1.nyc.gov/assets/hra/downloads/pdf/news/testimonies/2017/may/DSS_Ex%20FY18%20Testimony_FINAL.pdf.

63 New York City Human Resources Administration, "HRA's Biennial Employment Plan," New York City Human Resources Administration, https://www1.nyc.gov/assets/hra/downloads/pdf/news/internet_articles/2014/oct_2014/HRAEmploymentPlan_CC_080114.pdf (accessed January 28, 2021).

64 New York State Office of Temporary and Disability Assistance, "2017 Statistical Report on the Operations of New York State Public Assistance Programs," Office of Temporary and Disability Assistance, 2017, https://otda.ny.gov/resources/legislative-report/2017-Legislative-Report.pdf.